

Attachment D-6

Other Legislation

ASSEMBLY BILL

No. 14

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Hancock, Leno, Lieber, and
Saldana)
(Coauthors: Senators Kehoe and Kuehl)

December 4, 2006

An act to amend Sections 125.6, 16721, 16721.5, 19572, 23426.5, 23428.19, 23428.28, and 23438 of the Business and Professions Code, to amend Sections 82, 83, 84, 85, and 1747.80 of the Civil Code, to amend Sections 204 and 425.15 of the Code of Civil Procedure, to amend Sections 5047.5 and 24001.5 of the Corporations Code, to amend Sections 66030, 66251, 66270, 66292, 66292.1, 66292.2, 69535, 72011, 72014, 89757, and 92150 of the Education Code, to amend Section 2110 of the Elections Code, to amend Sections 11015, 11131, 54091, 54092, 54961, and 68088 of the Government Code, to amend Sections 1317, 1317.3, and 11801 of the Health and Safety Code, to amend Section 10115.7 of the Public Contract Code, to amend Sections 5080.18 and 5080.34 of the Public Resources Code, to amend Sections 453 and 12751.3 of the Public Utilities Code, to amend Section 24343.2 of, and to repeal and amend Section 17269 of, the Revenue and Taxation Code, and to amend Sections 4666, 5348, 5806, 10000, 16522.1, and 18907 of the Welfare and Institutions Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as introduced, Laird. Discrimination: Civil Rights Act of 2007.

(1) The Unruh Civil Rights Act entitles all persons within the jurisdiction of this state to the full and equal accommodations,

advantages, facilities, privileges, or services in all business establishments, regardless of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

Under existing law, persons holding licenses under the provisions of the Business and Professions Code are subject to disciplinary action for refusing, or aiding or inciting another licensee to refuse, to perform the licensed services because of the prospective recipient's race, color, sex, religion, ancestry, disability, marital status, or national origin. Existing law also creates an exception to that prohibition for healing arts practitioners if the licensed activity sought would pose a direct threat to the health or safety of others.

This bill would enact the Civil Rights Act of 2007, and would instead subject those licensees to disciplinary action if the above-described discrimination is based upon the prospective recipient's sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. This bill would also provide, however, that nothing in these provisions would require any healing arts practitioner to perform a licensed activity for which he or she is not qualified.

(2) Existing law provides that no person within the jurisdiction of this state shall be excluded or required to be excluded from a business transaction on the basis of a policy expressed in any document or writing and imposed by a 3rd party if that policy requires discrimination against that person on the basis of the person's sex, race, color, religion, ancestry, or national origin, or on the basis that the person conducts or has conducted business in a particular location.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, or on the basis that the person conducts or has conducted business in a particular location.

(3) Existing law provides that it is an unlawful trust and an unlawful restraint of trade for any person to grant or accept any letter of credit, or other document that evidences the transfer of funds or credit, or enter into any contract for the exchange of goods or services, if the letter of credit, contract, or other document contains any provision that requires any person to discriminate against, or to certify that he, she, or it has not dealt with, any other person on the basis of sex, race, color, religion, ancestry, or national origin, or on the basis of a person's lawful business association.

This bill would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical

condition, marital status, or sexual orientation, or on the basis of a person's lawful business association.

(4) The Horse Racing Law authorizes the California Horse Racing Board to provide by rule for the exclusion or ejection of specified persons from any horse racing inclosure. Notwithstanding that authorization, the law prohibits the board from providing by rule for the exclusion or ejection of a person on the ground of race, color, creed, national origin or ancestry, or sex.

This bill would instead prohibit the board from excluding or ejecting a person on the ground of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(5) Existing law prohibits tennis, handball, racquetball, and beach and athletic clubs from discriminating against any person on account of specified characteristics.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit those clubs from discriminating on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(6) Existing law requires every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin to incorporate a printed statement on its receipts that the expenditures covered by those receipts are nondeductible for tax purposes.

This bill would instead impose that requirement upon every alcoholic beverage club licensee that restricts membership or the use of its services or facilities on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(7) The California Fair Dealership Law prohibits various acts of discrimination based on race, color, religion, national ancestry, or sex, with regard to the granting of dealerships, as defined.

This bill would conform those provisions to the Unruh Civil Rights Act, and instead prohibit that discrimination based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(8) A provision of the Song-Beverly Credit Card Act of 1971 prohibits a card issuer, as defined, from refusing to issue a credit card to a person solely because of that person's race, religious creed, color, national origin, ancestry, or sex.

This bill would conform that provision to the Unruh Civil Rights Act, and instead prohibit that discrimination if based upon sex, race, color,

religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(9) Existing law specifies that no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, economic status, or sexual orientation, or for any other reason.

This bill would instead specify that no eligible person shall be exempt from service as a trial juror by reason of occupation, economic status, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, or for any other reason.

(10) Existing law provides that no cause of action may be maintained against a person serving without compensation as a director or officer of a nonprofit corporation incorporated pursuant to specified provisions of the nonprofit corporation law on account of any negligent act or omission by that person within the scope of that person's duties, except by court order or if the corporation unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

This bill would instead except from that immunity a director or officer of a nonprofit corporation that unlawfully restricts membership, services, or benefits on the basis of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(11) Existing law provides that it is the policy of the state to afford all persons equal rights and opportunities in the postsecondary institutions of the state, regardless of specified factors. Existing law prohibits those institutions from discriminating on the basis of those factors, and requires the governing board of each community college district, the Chancellor of the California State University, the president of each California State University campus, the President of the University of California, and the chancellor of each University of California campus to ensure that campus programs and activities are free from discrimination based upon those factors.

This bill would recast those factors in terms of, among others, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(12) Existing law requires Cal Grant Program awards to be awarded without regard to race, religion, creed, sex, or age.

This bill would instead require Cal Grant Program awards to be awarded without regard to age, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(13) Existing law prohibits the funds of a community college district, California State University, or University of California to be used for membership with, or for any participation involving a financial payment or contribution to, any private organization which membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

This bill would instead prohibit those funds from being used for membership or participation with any private organization that discriminates on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(14) Existing law prohibits a county elections official from refusing to deputize a person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

This bill would instead prohibit that refusal to deputize if based upon a person's ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(15) Existing law prohibits the state from using state funds for membership or any participation involving any private organization or the use of a facility which membership practices discriminate on the basis of, among others, race, creed, color, sex, religion, or national origin. Existing law also prohibits the legislative body of a local agency from using a facility which practices discriminate on the basis of those factors.

This bill would instead prohibit that state or local involvement and use of private facilities if the organization or facility discriminates on the basis of, among others, ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(16) Existing law requires a city, county, or other local agency that owns, operates, or controls a public beach, or access to that beach, to allow for its use by any person regardless of color, race, religion, ancestry, sex, national origin, or residence.

This bill would conform that provision to the Unruh Civil Rights Act, and allow for that access regardless of sex, race, color, religion, ancestry,

national origin, disability, medical condition, marital status, sexual orientation, or residence.

(17) Existing law authorizes the Judicial Council to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judges, commissioners, and referees.

This bill would further authorize the Judicial Council to provide by rule of court for training for judges, commissioners, and referees on any other bias based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(18) Existing law prohibits the provision of emergency services and care to be based upon, or affected by, a person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except as specified, and requires every hospital to adopt that policy.

This bill would instead prohibit that discrimination if based upon ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, except as specified, and would require every hospital to adopt that policy.

(19) Existing law authorizes each county to apply to the State Department of Health Services for funds for the purposes of alleviating problems in its county related to alcohol and drug abuse. Existing law authorizes each county to administer and coordinate all county alcohol and other drug programs funded by the state. Existing law requires every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

This bill would instead require every county alcohol and drug program administrator to assure compliance with applicable laws relating to discrimination against any person because of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(20) Existing law prohibits state governmental entities and contractors from discriminating in the awarding of any contract or subcontract on the basis of race, color, sex, ethnic origin, or ancestry.

This bill would instead prohibit that discrimination on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(21) Existing law governs contracts for state park system concessions, and prohibits discrimination by a concessionaire or his or her agents or employees against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of that person.

This bill would conform those provisions to the Unruh Civil Rights Act, and would instead prohibit that discrimination if based upon sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(22) Existing law prohibits a public utility from charging a person different rates or deposit amounts because of that person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status, or change in marital status.

This bill would instead prohibit that discrimination if based upon occupation, sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

(23) The Municipal Utility District Act prohibits a municipal utility district from discriminating in the awarding and performance of district contracts on the basis of race, color, sex, national origin, marital status, sexual preference, creed, ancestry, medical condition, or retaliation.

This bill would instead prohibit that discrimination if based upon marital status, ancestry, medical condition, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, disability, or retaliation.

(24) The Personal Income Tax Law and the Bank and Corporation Tax Law prohibit tax deductions based upon payments or expenditures made at a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

This bill would instead prohibit those deductions if made at a club that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability. The bill would also delete an identical and duplicate provision as that described above.

(25) Existing law requires the state to contract with appropriate agencies to provide regional centers in the community for persons with developmental disabilities. Existing law prohibits those regional centers from conducting any meeting, conference, or other function in any

facility that discriminates on the basis of race, religious creed, color, national origin, ancestry, sex, or disability.

This bill would further prohibit those centers from conducting any meeting, conference, or other function in any facility that discriminates on the basis of ancestry, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(26) Existing law requires any county that chooses to provide assisted outpatient treatment services to consider the cultural, linguistic, gender, age, and special needs of minorities in the target populations.

This bill would instead require those counties to consider the cultural, linguistic, and special needs based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability in the target populations.

(27) Existing law requires the State Department of Mental Health to establish service standards that ensure that members of the target population are identified and that services are provided to assist those members. Existing law requires those individual personal service plans to ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible.

This bill would instead require those service plans to ensure that members of the target population receive culturally appropriate services or appropriate services based upon race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent feasible.

(28) Existing law specifies that for the purposes of the Welfare and Institutions Code that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, national origin or ancestry, religion, sex, marital status, or political affiliation.

This bill would instead specify that those services be provided without discrimination on account of ancestry, marital status, political affiliation, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(29) Existing law requires the State Department of Social Services to adopt regulations to govern county transitional housing placement programs that provide supervised housing services to youth meeting specified criteria. Existing law requires the department to review the admission criteria to ensure that the criteria are sufficient to protect

participants and that they do not discriminate on the basis of race, gender, sexual orientation, or disability.

This bill would instead require that the admission criteria do not discriminate on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability.

(30) Existing law establishes a statewide program to enable specified recipients of aid and other low-income households to receive food stamps under the federal Food Stamp Program. Existing law provides that in the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief, to the extent not in conflict with federal law.

This bill would instead prohibit that discrimination if based upon marital status, political belief, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, to the extent not in conflict with federal law.

(31) This bill would further provide that the changes made by specified provisions of the act are to be construed as illustrative, rather than restrictive.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as "The
2 Civil Rights Act of 2007."
3 SEC. 2. Section 125.6 of the Business and Professions Code
4 is amended to read:
5 125.6. ~~Every~~ (a) *With regard to an applicant, every* person
6 who holds a license under the provisions of this code is subject to
7 disciplinary action under the disciplinary provisions of this code
8 applicable to ~~such that~~ person if, because of ~~the applicant's race,~~
9 ~~color, sex, religion, ancestry, disability, marital status, or national~~
10 ~~origin any characteristic listed or defined in subdivision (b) or (e)~~
11 *of Section 51 of the Civil Code*, he or she refuses to perform the
12 licensed activity or aids or incites the refusal to perform ~~such that~~
13 licensed activity by another licensee, or if, because of ~~the~~
14 ~~applicant's race, color, sex, religion, ancestry, disability, marital~~
15 ~~status, or national origin any characteristic listed or defined in~~
16 *subdivision (b) or (e) of Section 51 of the Civil Code*, he or she

1 makes any discrimination, or restriction in the performance of the
2 licensed activity. Nothing in this section shall be interpreted to
3 apply to discrimination by employers with regard to employees or
4 prospective employees, nor shall this section authorize action
5 against any club license issued pursuant to Article 4 (commencing
6 with Section 23425) of Chapter 3 of Division 9 because of
7 discriminatory membership policy. The presence of architectural
8 barriers to an individual with physical disabilities—~~which that~~
9 conform to applicable state or local building codes and regulations
10 shall not constitute discrimination under this section.

11 ~~Nothing~~

12 *(b) (1) Nothing in this section requires a person licensed*
13 *pursuant to Division 2 (commencing with Section 500) to permit*
14 *an individual to participate in, or benefit from, the licensed activity*
15 *of the licensee where that individual poses a direct threat to the*
16 *health or safety of others. For this purpose, the term “direct threat”*
17 *means a significant risk to the health or safety of others that cannot*
18 *be eliminated by a modification of policies, practices, or procedures*
19 *or by the provision of auxiliary aids and services.*

20 ~~“License,” as used in this section, includes “certificate,”~~
21 ~~“permit,” “authority,” and “registration” or any other indicia giving~~
22 ~~authorization to engage in a business or profession regulated by~~
23 ~~this code.~~

24 *(2) Nothing in this section requires a person licensed pursuant*
25 *to Division 2 (commencing with Section 500) to perform a licensed*
26 *activity for which he or she is not qualified to perform.*

27 ~~“Applicant,”~~

28 *(c) (1) “Applicant,” as used in this section, means a person*
29 *applying for licensed services provided by a person licensed under*
30 *this code.*

31 ~~“Disability” means any of the following with respect to an~~
32 ~~individual:~~

33 ~~(a) A physical or mental impairment that substantially limits~~
34 ~~one or more of the major life activities of the individual.~~

35 ~~(b) A record of such an impairment.~~

36 ~~(c) Being regarded as having such an impairment.~~

37 *(2) “License,” as used in this section, includes “certificate,”*
38 *“permit,” “authority,” and “registration” or any other indicia*
39 *giving authorization to engage in a business or profession*
40 *regulated by this code.*

1 SEC. 3. Section 16721 of the Business and Professions Code
2 is amended to read:

3 16721. Recognizing that the California Constitution prohibits
4 a person from being disqualified from entering or pursuing a
5 business, profession, vocation, or employment because of sex,
6 race, creed, color, or national or ethnic origin, and guarantees the
7 free exercise and enjoyment of religion without discrimination or
8 preference; and recognizing that these and other basic, fundamental
9 constitutional principles are directly affected and denigrated by
10 certain on-going practices in the business and commercial world,
11 it is necessary that provisions protecting and enhancing a person's
12 right to enter or pursue business and to freely exercise and enjoy
13 religion, consistent with law, be established.

14 (a) No person within the jurisdiction of this state shall be
15 excluded from a business transaction on the basis of a policy
16 expressed in any document or writing and imposed by a third party
17 where ~~such~~ *that* policy requires discrimination against that person
18 on the basis of ~~the person's sex, race, color, religion, ancestry or~~
19 ~~national origin~~ *any characteristic listed or defined in subdivision*
20 *(b) or (e) of Section 51 of the Civil Code* or on the basis that the
21 person conducts or has conducted business in a particular location.

22 (b) No person within the jurisdiction of this state shall require
23 another person to be excluded, or be required to exclude another
24 person, from a business transaction on the basis of a policy
25 expressed in any document or writing ~~which~~ *that* requires
26 discrimination against ~~such~~ *that* other person on the basis of ~~that~~
27 ~~person's sex, race, color, religion, ancestry or national origin~~ *any*
28 *characteristic listed or defined in subdivision (b) or (e) of Section*
29 *51 of the Civil Code* or on the basis that the person conducts or
30 has conducted business in a particular location.

31 (c) Any violation of any provision of this section is a conspiracy
32 against trade.

33 (d) Nothing in this section shall be construed to prohibit any
34 person, on this basis of his or her individual ideology or
35 preferences, from doing business or refusing to do business with
36 any other person consistent with law.

37 SEC. 4. Section 16721.5 of the Business and Professions Code
38 is amended to read:

39 16721.5. (a) It is an unlawful trust and an unlawful restraint
40 of trade for any person to do the following:

1 ~~(a)~~

2 (1) Grant or accept any letter of credit, or other document ~~which~~
3 that evidences the transfer of funds or credit, or enter into any
4 contract for the exchange of goods or services, where the letter of
5 credit, contract, or other document contains any provision ~~which~~
6 that requires any person to discriminate against or to certify that
7 he, she, or it has not dealt with any other person on the basis of
8 ~~sex, race, color, religion, ancestry, or national origin~~ any
9 characteristic listed or defined in subdivision (b) or (e) of Section
10 51 of the Civil Code, or on the basis of a person's lawful business
11 associations.

12 ~~(b)~~

13 (2) To refuse to grant or accept any letter of credit, or other
14 document ~~which~~ that evidences the transfer of funds or credit, or
15 to refuse to enter into any contract for the exchange of goods or
16 services, on the ground that it does not contain ~~such~~ a
17 discriminatory provision or certification.

18 The

19 (b) The provisions of this section shall not apply to any letter
20 of credit, contract, or other document ~~which~~ that contains any
21 provision pertaining to a labor dispute or an unfair labor practice
22 if the other provisions of ~~such~~ that letter of credit, contract, or
23 other document do not otherwise violate the provisions of this
24 section.

25 For the

26 (c) For purposes of this section, the prohibition against
27 discrimination on the basis of a person's business associations
28 shall be deemed not to include the requiring of association with
29 particular employment or a particular group as a prerequisite to
30 obtaining group rates or discounts on insurance, recreational
31 activities, or other similar benefits.

32 For

33 (d) For purposes of this section, "person" shall include, but not
34 be limited to, individuals, firms partnerships, associations,
35 corporations, and governmental agencies.

36 SEC. 5. Section 19572 of the Business and Professions Code
37 is amended to read:

38 19572. The board may, by rule, provide for the exclusion or
39 ejection from any inclosure where horse races are authorized, or
40 from specified portions of ~~such~~ that inclosure, of any known

1 bookmaker, known tout, person who has been convicted of a
2 violation of any provision of this chapter or of any law prohibiting
3 bookmaking or any other illegal form of wagering on horse races,
4 or any other person whose presence in the inclosure would, in the
5 opinion of the board, be inimical to the interests of the state or of
6 legitimate horse racing, or both. No ~~such~~ rule shall provide for the
7 exclusion or ejection of any person on the ground of ~~race, color,~~
8 ~~creed, national origin or ancestry, or sex~~ *any characteristic listed*
9 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

10 SEC. 6. Section 23426.5 of the Business and Professions Code
11 is amended to read:

12 23426.5. (a) For purposes of this article, “club” also means
13 any tennis club that maintains not less than four regulation tennis
14 courts, together with the necessary facilities and clubhouse, has
15 members paying regular monthly dues, has been in existence for
16 not less than 45 years, and is not associated with a common interest
17 development as defined in Section 1351 of the Civil Code, a
18 community apartment project as defined in Section 11004 of this
19 code, a project consisting of condominiums as defined in Section
20 783 of the Civil Code, or a mobilehome park as defined in Section
21 18214 of the Health and Safety Code.

22 (b) It shall be unlawful for any club licensed pursuant to this
23 section to make any discrimination, distinction, or restriction
24 against any person on account of ~~the person’s color, race, religion,~~
25 ~~ancestry, national origin, sex, or age~~ *or any characteristic listed*
26 *or defined in subdivision (b) or (e) of Section 51 of the Civil Code.*

27 SEC. 7. Section 23428.19 of the Business and Professions
28 Code is amended to read:

29 23428.19. For purposes of this article, “club” also means any
30 private club organized to play handball or racquetball, which owns,
31 maintains, or operates a building containing not less than four
32 regulation-size handball or racquetball courts, which has members,
33 and the members of which each pay regular monthly dues. As used
34 in this section, a “regulation-size handball or racquetball court” is
35 a court meeting the standards for ~~such~~ regulation courts *as are*
36 promulgated by the United States Handball Association or an
37 equivalent organization.

38 It shall be unlawful for any club licensed pursuant to this section
39 to make any discrimination, distinction, or restriction against any
40 person on account of ~~such person’s color, race, religion, ancestry,~~

1 ~~or national origin~~ any characteristic listed or defined in subdivision
2 (b) or (e) of Section 51 of the Civil Code.

3 SEC. 8. Section 23428.28 of the Business and Professions
4 Code is amended to read:

5 23428.28. For the purposes of this article, “club” also means
6 any beach and athletic club that owns, maintains, or operates a
7 standard Amateur Athletic Union (AAU) swimming pool together
8 with the necessary facilities and clubhouse, has a minimum of 500
9 members paying regular monthly dues, and has continuously
10 operated for not less than one year.

11 No license shall be issued to any beach and athletic club
12 qualifying as a club pursuant to this section if the beach and athletic
13 club in any manner restricts membership or the use of its facilities
14 on the basis of ~~race, religion, national origin, sex, or age~~ or any
15 characteristic listed or defined in subdivision (b) or (e) of Section
16 51 of the Civil Code.

17 SEC. 9. Section 23438 of the Business and Professions Code
18 is amended to read:

19 23438. (a) Any alcoholic beverage club licensee which restricts
20 membership or the use of its services or facilities on the basis of
21 ~~age, sex, race, religion, color, ancestry, or national origin~~ or any
22 characteristic listed or defined in Section 11135 of the Government
23 Code shall, when issuing a receipt for expenses which may
24 otherwise be used by taxpayers for deduction purposes pursuant
25 to Section 162(a) of the Internal Revenue Code, for purposes of
26 the Personal Income Tax Law, or Section 24343 of the Revenue
27 and Taxation Code, for purposes of the Bank and Corporation Tax
28 Law, incorporate a printed statement on the receipt as follows:

29 “The expenditures covered by this receipt are nondeductible for
30 state income tax purposes or franchise tax purposes.”

31 (b) For purposes of this section, the following terms have the
32 following meanings:

33 (1) “Expenses” means expenses, as defined in Section 17269
34 or 24343.2 of the Revenue and Taxation Code.

35 (2) “Club” means a club holding an alcoholic beverage license
36 pursuant to the provisions of this division, except a club holding
37 an alcoholic beverage license pursuant to Section 23425.

38 SEC. 10. Section 82 of the Civil Code is amended to read:

39 82. This part shall be liberally construed and applied to promote
40 its underlying purposes and policies, which are as follows:

1 (a) The prohibition of discrimination based upon ~~race, color,~~
2 ~~religion, national origin, ancestry, or sex~~ *any characteristic listed*
3 *or defined in subdivision (b) or (e) of Section 51* in the granting,
4 sale, transfer, bequest, termination, and nonrenewal of ~~dealerships;~~
5 ~~and, dealerships.~~

6 The

7 (b) The requirements of this part shall not be varied by contract
8 or agreement and any portion of a contract or agreement purporting
9 to do so is void and unenforceable.

10 SEC. 11. Section 83 of the Civil Code is amended to read:

11 83. On or after January 1, 1981, no grantor, directly or
12 indirectly, shall refuse to grant a dealership to any person because
13 ~~of the race, color, religion, national origin, ancestry, or sex of such~~
14 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
15 *(e) of Section 51.*

16 SEC. 12. Section 84 of the Civil Code is amended to read:

17 84. On or after January 1, 1981, no grantor, directly or
18 indirectly, may terminate, cancel, or refuse to renew a dealership
19 agreement *with a dealer* because of ~~the race, color, religion,~~
20 ~~national origin, ancestry, or sex of the dealer~~ *any characteristic*
21 *listed or defined in subdivision (b) or (e) of Section 51.*

22 SEC. 13. Section 85 of the Civil Code is amended to read:

23 85. On or after January 1, 1981, no grantor or dealer, directly
24 or indirectly, shall refuse to make or to consent to an assignment,
25 sale, transfer, or bequest of a dealership to any person, or to the
26 intestate succession to the dealership by any person, because of
27 ~~the race, color, religion, national origin, ancestry, or sex of such~~
28 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
29 *(e) of Section 51.* This section shall not be construed to create any
30 right in a dealer to assign, sell, transfer, or bequeath a dealership
31 where the right did not exist prior to January 1, 1981.

32 SEC. 14. Section 1747.80 of the Civil Code is amended to
33 read:

34 1747.80. (a) No card issuer shall refuse to issue a credit card
35 to any person solely because of ~~that person's race, religious creed,~~
36 ~~color, national origin, ancestry or sex~~ *any characteristic listed or*
37 *defined in subdivision (b) or (e) of Section 51.*

38 (b) Any card issuer who willfully violates this section is liable
39 for each and every ~~such~~ offense for the actual damages, and two
40 hundred fifty dollars (\$250) in addition thereto, suffered by any

1 person denied a credit card solely for the reasons set forth in
2 subdivision (a); ~~and in. In addition such, that~~ person may petition
3 the court to order the card issuer to issue him *or her* a credit card
4 upon ~~such~~ the terms, conditions, and standards as the card issuer
5 normally utilizes in granting credit to other individuals.

6 SEC. 15. Section 204 of the Code of Civil Procedure is
7 amended to read:

8 204. (a) No eligible person shall be exempt from service as a
9 trial juror by reason of occupation, ~~race, color, religion, sex,~~
10 ~~national origin,~~ economic status, or ~~sexual orientation~~ *any*
11 *characteristic listed or defined in Section 11135 of the Government*
12 *Code*, or for any other reason. No person shall be excused from
13 service as a trial juror except as specified in subdivision (b).

14 (b) An eligible person may be excused from jury service only
15 for undue hardship, upon themselves or upon the public, as defined
16 by the Judicial Council.

17 SEC. 16. Section 425.15 of the Code of Civil Procedure is
18 amended to read:

19 425.15. (a) No cause of action against a person serving without
20 compensation as a director or officer of a nonprofit corporation
21 described in this section, on account of any negligent act or
22 omission by that person within the scope of that person's duties
23 as a director acting in the capacity of a board member, or as an
24 officer acting in the capacity of, and within the scope of the duties
25 of, an officer, shall be included in a complaint or other pleading
26 unless the court enters an order allowing the pleading that includes
27 that claim to be filed after the court determines that the party
28 seeking to file the pleading has established evidence that
29 substantiates the claim. The court may allow the filing of a pleading
30 that includes that claim following the filing of a verified petition
31 therefor accompanied by the proposed pleading and supporting
32 affidavits stating the facts upon which the liability is based. The
33 court shall order service of the petition upon the party against
34 whom the action is proposed to be filed and permit that party to
35 submit opposing affidavits prior to making its determination. The
36 filing of the petition, proposed pleading, and accompanying
37 affidavits shall toll the running of any applicable statute of
38 limitations until the final determination of the matter, which ruling,
39 if favorable to the petitioning party, shall permit the proposed
40 pleading to be filed.

1 (b) Nothing in this section shall affect the right of the plaintiff
2 to discover evidence on the issue of damages.

3 (c) Nothing in this section shall be construed to affect any action
4 against a nonprofit corporation for any negligent action or omission
5 of a volunteer director or officer occurring within the scope of the
6 person's duties.

7 (d) For the purposes of this section, "compensation" means
8 remuneration whether by way of salary, fee, or other consideration
9 for services rendered. However, the payment of per diem, mileage,
10 or other reimbursement expenses to a director or officer shall not
11 constitute compensation.

12 (e) (1) This section applies only to officers and directors of
13 nonprofit corporations that are subject to Part 2 (commencing with
14 Section 5110), Part 3 (commencing with Section 7110), or Part 4
15 (commencing with Section 9110) of Division 2 of Title 1 of the
16 Corporations Code that are organized to provide charitable,
17 educational, scientific, social, or other forms of public service and
18 that are exempt from federal income taxation under Section
19 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5),
20 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

21 (2) This section does not apply to any corporation that
22 unlawfully restricts membership, services, or benefits conferred
23 on the basis of ~~race, religious creed, color, national origin, ancestry,~~
24 ~~sex,~~ marital status, ~~disability,~~ political affiliation, or ~~age~~ *any*
25 *characteristic listed or defined in Section 11135 of the Government*
26 *Code.*

27 SEC. 17. Section 5047.5 of the Corporations Code is amended
28 to read:

29 5047.5. (a) The Legislature finds and declares that the services
30 of directors and officers of nonprofit corporations who serve
31 without compensation are critical to the efficient conduct and
32 management of the public service and charitable affairs of the
33 people of California. The willingness of volunteers to offer their
34 services has been deterred by a perception that their personal assets
35 are at risk for these activities. The unavailability and unaffordability
36 of appropriate liability insurance makes it difficult for these
37 corporations to protect the personal assets of their volunteer
38 decisionmakers with adequate insurance. It is the public policy of
39 this state to provide incentive and protection to the individuals
40 who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit corporation subject to Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of this division on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the corporation; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit corporations organized to provide religious, charitable, literary, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit corporation maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the corporation's annual budget is less than fifty thousand dollars (\$50,000), the minimum required amount is five hundred thousand dollars (\$500,000).

(2) If the corporation's annual budget equals or exceeds fifty thousand dollars (\$50,000), the minimum required amount is one million dollars (\$1,000,000).

1 This section applies only if the claim against the director or
2 officer may also be made directly against the corporation and a
3 general liability insurance policy is in force both at the time of
4 injury and at the time the claim against the corporation is made,
5 so that a policy is applicable to the claim. If a general liability
6 policy is found to cover the damages caused by the director or
7 officer, no cause of action as provided in this section shall be
8 maintained against the director or officer.

9 (f) For the purposes of this section, the payment of actual
10 expenses incurred in attending meetings or otherwise in the
11 execution of the duties of a director or officer shall not constitute
12 compensation.

13 (g) Nothing in this section shall be construed to limit the liability
14 of a nonprofit corporation for any negligent act or omission of a
15 director, officer, employee, agent, or servant occurring within the
16 scope of his or her duties.

17 (h) This section does not apply to any corporation that
18 unlawfully restricts membership, services, or benefits conferred
19 on the basis of ~~race, religious creed, color, national origin, ancestry,~~
20 ~~sex,~~ marital status, ~~disability,~~ political affiliation, or ~~age~~ *any*
21 *characteristic listed or defined in Section 11135 of the Government*
22 *Code.*

23 (i) This section does not apply to any volunteer director or
24 officer who receives compensation from the corporation in any
25 other capacity, including, but not limited to, as an employee.

26 SEC. 18. Section 24001.5 of the Corporations Code is amended
27 to read:

28 24001.5. (a) The Legislature finds and declares that the
29 services of directors or officers of nonprofit medical associations,
30 as defined in Section 21200, who serve without compensation are
31 critical to the efficient conduct and management of the public
32 service and charitable affairs of the people of California. The
33 willingness of volunteers to offer their services has been deterred
34 by a perception that their personal assets are at risk for these
35 activities. The unavailability and unaffordability of appropriate
36 liability insurance makes it difficult for these associations to protect
37 the personal assets of their volunteer decisionmakers with adequate
38 insurance. It is the public policy of this state to provide incentive
39 and protection to the individuals who perform these important
40 functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit medical association, as defined in Section 21200, on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the association; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit organizations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit association maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the association's annual budget is less than fifty thousand dollars (\$50,000), the minimum required amount is five hundred thousand dollars (\$500,000).

(2) If the association's annual budget equals or exceeds fifty thousand dollars (\$50,000), the minimum required amount is one million dollars (\$1,000,000).

1 This section applies only if the general liability insurance policy
2 is in force both at the time of injury and at the time that the claim
3 is made, so that the policy is applicable to the claim.

4 (f) For the purposes of this section, the payment of actual
5 expenses incurred in attending meetings or otherwise in the
6 execution of the duties of a director or officer shall not constitute
7 compensation.

8 (g) Nothing in this section shall be construed to limit the liability
9 of a nonprofit association for any negligent act or omission of a
10 director, officer employee, agent, or servant occurring within the
11 scope of his or her duties.

12 (h) This section does not apply to any association that unlawfully
13 restricts membership, services, or benefits conferred on the basis
14 of ~~race, religious creed, color, national origin, ancestry, sex, marital~~
15 ~~status, disability, political affiliation, or age~~ *any characteristic*
16 *listed or defined in Section 11135 of the Government Code.*

17 (i) This section does not apply to any volunteer director or
18 officer who receives compensation from the association in any
19 other capacity, including, but not limited to, as an employee.

20 SEC. 19. Section 66030 of the Education Code is amended to
21 read:

22 66030. (a) It is the intent of the Legislature that public higher
23 education in California strive to provide educationally equitable
24 environments ~~which that~~ give each Californian, regardless of ~~ethnic~~
25 ~~origin, race, gender, age, disability, or economic circumstance, or~~
26 *any other characteristic listed or defined in subdivision (b) or (e)*
27 *of Section 51 of the Civil Code*, a reasonable opportunity to develop
28 fully his or her potential.

29 (b) It is the responsibility of the governing boards of institutions
30 of higher education to ensure and maintain multicultural learning
31 environments free from all forms of discrimination and harassment,
32 in accordance with state and federal law.

33 SEC. 20. Section 66251 of the Education Code is amended to
34 read:

35 66251. It is the policy of the State of California to afford all
36 persons, regardless of ~~their sex, ethnic group identification, race,~~
37 ~~national origin, religion, mental or physical disability, or regardless~~
38 ~~of any characteristic listed or defined in subdivision (b) or (e) of~~
39 *Section 51 of the Civil Code* or any basis that is contained in the
40 prohibition of hate crimes set forth in subdivision (a) of Section

1 422.6 of the Penal Code, equal rights and opportunities in the
2 postsecondary institutions of the state. The purpose of this chapter
3 is to prohibit acts that are contrary to that policy and to provide
4 remedies therefor.

5 SEC. 21. Section 66270 of the Education Code is amended to
6 read:

7 66270. No person shall be subjected to discrimination on the
8 basis of ~~sex, ethnic group identification, race, national origin,~~
9 ~~religion, color, or mental or physical disability, any characteristic~~
10 ~~listed or defined in subdivision (b) or (e) of Section 51 of the Civil~~
11 ~~Code~~ or any basis that is contained in the prohibition of hate crimes
12 set forth in subdivision (a) of Section 422.6 of the Penal Code in
13 any program or activity conducted by any postsecondary
14 educational institution that receives, or benefits from, state financial
15 assistance or enrolls students who receive state student financial
16 aid.

17 SEC. 22. Section 66292 of the Education Code is amended to
18 read:

19 66292. (a) The governing board of a community college district
20 shall have the primary responsibility for ensuring that community
21 college district programs and activities are free from discrimination
22 based on ~~ethnic group identification, religion, age, sex, color, or~~
23 ~~physical or mental disability or any characteristic listed or defined~~
24 ~~in subdivision (b) or (e) of Section 51 of the Civil Code.~~

25 (b) The Chancellor's office of the California Community
26 Colleges shall have responsibility for monitoring the compliance
27 of each district with any and all regulations adopted pursuant to
28 Section 11138 of the Government Code.

29 SEC. 23. Section 66292.1 of the Education Code is amended
30 to read:

31 66292.1. The Chancellor of the California State University and
32 the president of each California State University campus shall have
33 the primary responsibility for ensuring that campus programs and
34 activities are free from discrimination based on ~~ethnic group~~
35 ~~identification, religion, age, sex, color, or physical or mental~~
36 ~~disability or any characteristic listed or defined in subdivision (b)~~
37 ~~or (e) of Section 51 of the Civil Code.~~

38 SEC. 24. Section 66292.2 of the Education Code is amended
39 to read:

1 66292.2. The President of the University of California and the
2 chancellor of each University of California campus shall have
3 primary responsibility for ensuring that campus programs and
4 activities are free from discrimination based on ~~ethnic group~~
5 ~~identification, religion, age, sex, color, or physical or mental~~
6 ~~disability or any characteristic listed or defined in subdivision (b)~~
7 ~~or (e) of Section 51 of the Civil Code.~~

8 SEC. 25. Section 69535 of the Education Code is amended to
9 read:

10 69535. (a) Cal Grant Program awards shall be based upon the
11 financial need of the applicant. The level of financial need of each
12 applicant shall be determined by the commission pursuant to
13 Article 1.5 (commencing with Section 69503).

14 (b) For the applicants so qualifying, academic criteria or criteria
15 related to past performances shall be utilized as the criteria in
16 determining eligibility for grants.

17 (c) All Cal Grant Program award recipients shall be residents
18 of California, as determined by the commission pursuant to Part
19 41 (commencing with Section 68000), and shall remain eligible
20 only if they are in attendance and making satisfactory progress
21 through the instructional programs, as determined by the
22 commission.

23 (d) Part-time students shall not be discriminated against in the
24 selection of Cal Grant Program award recipients, and awards to
25 part-time students shall be roughly proportional to the time spent
26 in the instructional program, as determined by the commission.
27 First-time Cal Grant Program award recipients who are part-time
28 students shall be eligible for a full-time renewal award.

29 (e) Cal Grant Program awards shall be awarded without regard
30 to ~~race, religion, creed, sex, or age or any characteristic listed or~~
31 ~~defined in subdivision (b) or (e) of Section 51 of the Civil Code.~~

32 (f) No applicant shall receive more than one type of Cal Grant
33 Program award concurrently. Except as provided in subdivisions
34 (b) and (c) of Section 69535.1, no applicant shall:

35 (1) Receive one or a combination of Cal Grant Program awards
36 in excess of a total of four years of full-time attendance in an
37 undergraduate program.

38 (2) Have obtained a baccalaureate degree prior to receiving a
39 Cal Grant Program award, except as provided in Section 69540.

1 (g) Cal Grant Program awards, except as provided in subdivision
2 (c) of Section 69535.1, may only be used for educational expenses
3 of a program of study leading directly to an undergraduate degree
4 or certificate, or for expenses of undergraduate coursework in a
5 program of study leading directly to a first professional degree,
6 but for which no baccalaureate degree is awarded.

7 (h) Commencing in 1999, the commission shall, for students
8 who accelerate college attendance, increase the amount of award
9 proportional to the period of additional attendance resulting from
10 attendance in classes that fulfill requirements or electives for
11 graduation during summer terms, sessions, or quarters. In the
12 aggregate, the total amount a student may receive in a four-year
13 period may not be increased as a result of accelerating his or her
14 progress to a degree by attending summer terms, sessions, or
15 quarters.

16 (i) The commission shall notify Cal Grant award recipients of
17 the availability of funding for the summer term, session, or quarter
18 through prominent notice in financial aid award letters, materials,
19 guides, electronic information, and other means that may include,
20 but not be limited to, surveys, newspaper articles, or attachments
21 to communications from the commission and any other published
22 documents.

23 (j) The commission may provide by appropriate rules and
24 regulations for reports, accounting, and statements from the award
25 winner and college or university of attendance pertaining to the
26 use or application of the award as the commission may deem
27 proper.

28 (k) The commission may establish Cal Grant Program awards
29 in one hundred dollar (\$100) increments.

30 (l) A Cal Grant Program award may be utilized only at the
31 following institutions or programs:

32 (1) Any California private or independent postsecondary
33 educational institution or program that participates in two of the
34 three federal campus-based student aid programs and whose
35 students participate in the Pell Grant program.

36 (2) Any nonprofit regionally accredited institution headquartered
37 and operating in California that certifies to the commission that
38 10 percent of the institution's operating budget, as demonstrated
39 in an audited financial statement, is expended for the purposes of
40 institutionally funded student financial aid in the form of grants

1 and that demonstrates to the commission that it has the
2 administrative capacity to administer the funds.

3 (3) Any California public postsecondary educational institution
4 or program.

5 SEC. 26. Section 72011 of the Education Code is amended to
6 read:

7 72011. Every community college district shall provide access
8 to its services, classes, and programs without regard to ~~race,~~
9 ~~religious creed, color, national origin, ancestry, handicap, or sex~~
10 *any characteristic listed or defined in subdivision (b) or (e) of*
11 *Section 51 of the Civil Code.*

12 SEC. 27. Section 72014 of the Education Code is amended to
13 read:

14 72014. No funds under the control of a community college
15 district shall ever be used for membership or for any participation
16 involving a financial payment or contribution, on behalf of the
17 district or any individual employed by or associated therewith, in
18 any private organization whose membership practices are
19 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~
20 ~~national origin~~ *any characteristic listed or defined in subdivision*
21 *(b) or (e) of Section 51 of the Civil Code.* This section does not
22 apply to any public funds which have been paid to an individual
23 officer or employee of the district as salary, or to any funds which
24 are used directly or indirectly for the benefit of student
25 organizations.

26 SEC. 28. Section 89757 of the Education Code is amended to
27 read:

28 89757. None of the funds enumerated in Section 89756, nor
29 any of the funds of an auxiliary organization, shall ever be used
30 by any university or college for membership or for any participation
31 involving a financial payment or contribution, on behalf of the
32 institution, or any individual employed by or associated therewith,
33 in any private organization whose membership practices are
34 discriminatory on the basis of ~~race, creed, color, sex, religion, or~~
35 ~~national origin~~ *any characteristic listed or defined in subdivision*
36 *(b) or (e) of Section 51 of the Civil Code.* This section does not
37 apply to any public funds which have been paid to an individual
38 employee or officer as salary, or to any funds which are used
39 directly or indirectly for the benefit of student organizations.

1 SEC. 29. Section 92150 of the Education Code is amended to
2 read:

3 92150. No state funds under the control of an officer or
4 employee of the University of California shall ever be used for
5 membership or for any participation involving a financial payment
6 or contribution, on behalf of the university, or any individual
7 employed by or associated therewith, in any private organization
8 whose membership practices are discriminatory on the basis of
9 ~~race, creed, color, sex, religion, or national origin~~ *any characteristic*
10 *listed or defined in subdivision (b) or (e) of Section 51 of the Civil*
11 *Code*. This section does not apply to any public funds which have
12 been paid to an individual employee or officer of the university as
13 salary, or to any funds which are used directly or indirectly for the
14 benefit of student organizations.

15 SEC. 30. Section 2110 of the Elections Code is amended to
16 read:

17 2110. No county elections official may refuse to deputize any
18 person to register voters because of ~~race, creed, color, national~~
19 ~~origin, ancestry, sex, marital status, disability, religious or political~~
20 ~~affiliation, or age~~ *any characteristic listed or defined in Section*
21 *11135 of the Government Code*.

22 SEC. 31. Section 11015 of the Government Code is amended
23 to read:

24 11015. No state funds under the control of an officer or
25 employee of the state, or of any agency thereof, shall ever be used
26 for membership or for any participation involving a financial
27 payment or contribution, on behalf of the state agency, or any
28 individual employed by or associated therewith, in any private
29 organization whose membership practices are discriminatory on
30 the basis of ~~race, creed, color, sex, religion, or national origin~~ *any*
31 *characteristic listed or defined in Section 11135*. This section does
32 not apply to any public funds which have been paid to an individual
33 employee or officer as salary.

34 SEC. 32. Section 11131 of the Government Code is amended
35 to read:

36 11131. No state agency shall conduct any meeting, conference,
37 or other function in any facility that prohibits the admittance of
38 any person, or persons, on the basis of ~~race, religious creed, color,~~
39 ~~national origin, ancestry, or sex~~ *any characteristic listed or defined*
40 *in Section 11135*, or that is inaccessible to disabled persons, or

1 where members of the public may not be present without making
2 a payment or purchase. As used in this section, “state agency”
3 means and includes every state body, office, officer, department,
4 division, bureau, board, council, commission, or other state agency.

5 SEC. 33. Section 54091 of the Government Code is amended
6 to read:

7 54091. Any city, county, or other local agency ~~which~~ *that* owns,
8 operates, or controls any public beach shall allow the use of ~~such~~
9 ~~that~~ public beach by all persons regardless of ~~color, race, religion,~~
10 ~~ancestry, sex, national origin,~~ or residence ~~or any characteristic~~
11 ~~listed or defined in subdivision (b) or (e) of Section 51 of the Civil~~
12 ~~Code.~~ Nonresidents of the city, county, or other local agency shall
13 be permitted to use ~~such~~ *that* public beach upon the same terms
14 and conditions as are residents of ~~such~~ *the* city, county, or local
15 agency.

16 SEC. 34. Section 54092 of the Government Code is amended
17 to read:

18 54092. Any city, county, or other local agency ~~which~~ *that*
19 allows any property owned, operated, or controlled by it to be used
20 as a means of access to any public beach shall allow free access
21 over ~~such~~ *that* property to all persons regardless of ~~color, race,~~
22 ~~religion, ancestry, sex, national origin,~~ or residence ~~or any~~
23 ~~characteristic listed or defined in subdivision (b) or (e) of Section~~
24 ~~51 of the Civil Code.~~

25 SEC. 35. Section 54961 of the Government Code is amended
26 to read:

27 54961. (a) No legislative body of a local agency shall conduct
28 any meeting in any facility that prohibits the admittance of any
29 person, or persons, on the basis of ~~race, religious creed, color,~~
30 ~~national origin, ancestry, or sex~~ *any characteristic listed or defined*
31 *in Section 11135*, or which is inaccessible to disabled persons, or
32 where members of the public may not be present without making
33 a payment or purchase. This section shall apply to every local
34 agency as defined in Section 54951.

35 (b) No notice, agenda, announcement, or report required under
36 this chapter need identify any victim or alleged victim of tortious
37 sexual conduct or child abuse unless the identity of the person has
38 been publicly disclosed.

39 SEC. 36. Section 68088 of the Government Code is amended
40 to read:

1 68088. The Judicial Council may provide by rule of court for
2 racial, ethnic, and gender bias, and sexual harassment training *and*
3 *training for any other bias based on any characteristic listed or*
4 *defined in Section 11135* for judges, commissioners, and referees.

5 SEC. 37. Section 1317 of the Health and Safety Code is
6 amended to read:

7 1317. (a) Emergency services and care shall be provided to
8 any person requesting the services or care, or for whom services
9 or care is requested, for any condition in which the person is in
10 danger of loss of life, or serious injury or illness, at any health
11 facility licensed under this chapter that maintains and operates an
12 emergency department to provide emergency services to the public
13 when the health facility has appropriate facilities and qualified
14 personnel available to provide the services or care.

15 (b) In no event shall the provision of emergency services and
16 care be based upon, or affected by, the person's ~~race~~, ethnicity,
17 ~~religion, national origin,~~ citizenship, age, ~~sex~~, preexisting medical
18 condition, ~~physical or mental handicap~~, insurance status, economic
19 status, ~~or ability to pay for medical services, or any other~~
20 *characteristic listed or defined in subdivision (b) or (e) of Section*
21 *51 of the Civil Code*, except to the extent that a circumstance such
22 as age, sex, preexisting medical condition, or physical or mental
23 ~~handicap disability~~ is medically significant to the provision of
24 appropriate medical care to the patient.

25 (c) Neither the health facility, its employees, nor any physician
26 and surgeon, dentist, clinical psychologist, or podiatrist shall be
27 liable in any action arising out of a refusal to render emergency
28 services or care if the refusal is based on the determination,
29 exercising reasonable care, that the person is not suffering from
30 an emergency medical condition, or that the health facility does
31 not have the appropriate facilities or qualified personnel available
32 to render those services.

33 (d) Emergency services and care shall be rendered without first
34 questioning the patient or any other person as to his or her ability
35 to pay therefor. However, the patient or his or her legally
36 responsible relative or guardian shall execute an agreement to pay
37 therefor or otherwise supply insurance or credit information
38 promptly after the services are rendered.

39 (e) If a health facility subject to this chapter does not maintain
40 an emergency department, its employees shall nevertheless exercise

1 reasonable care to determine whether an emergency exists and
2 shall direct the persons seeking emergency care to a nearby facility
3 ~~which~~ *that* can render the needed services, and shall assist the
4 persons seeking emergency care in obtaining the services, including
5 transportation services, in every way reasonable under the
6 circumstances.

7 (f) No act or omission of any rescue team established by any
8 health facility licensed under this chapter, or operated by the federal
9 or state government, a county, or by the Regents of the University
10 of California, done or omitted while attempting to resuscitate any
11 person who is in immediate danger of loss of life shall impose any
12 liability upon the health facility, the officers, members of the staff,
13 nurses, or employees of the health facility, including, but not
14 limited to, the members of the rescue team, or upon the federal or
15 state government or a county, if good faith is exercised.

16 (g) "Rescue team," as used in this section, means a special group
17 of physicians and surgeons, nurses, and employees of a health
18 facility who have been trained in cardiopulmonary resuscitation
19 and have been designated by the health facility to attempt, in cases
20 of emergency, to resuscitate persons who are in immediate danger
21 of loss of life.

22 (h) This section shall not relieve a health facility of any duty
23 otherwise imposed by law upon the health facility for the
24 designation and training of members of a rescue team or for the
25 provision or maintenance of equipment to be used by a rescue
26 team.

27 SEC. 38. Section 1317.3 of the Health and Safety Code is
28 amended to read:

29 1317.3. (a) As a condition of licensure, each hospital shall
30 adopt, in consultation with the medical staff, policies and transfer
31 protocols consistent with this article and regulations adopted
32 hereunder.

33 (b) As a condition of licensure, each hospital shall adopt a policy
34 prohibiting discrimination in the provision of emergency services
35 and care based on ~~race, ethnicity, religion, national origin,~~
36 citizenship, age, ~~sex,~~ preexisting medical condition, ~~physical or~~
37 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to
38 pay for medical services, *or any characteristic listed or defined*
39 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to
40 the extent that a circumstance such as age, sex, preexisting medical

1 condition, or physical or mental ~~handicap~~ *disability* is medically
2 significant to the provision of appropriate medical care to the
3 patient. Transfer by a hospital of a patient who requires evaluation
4 for involuntary psychiatric treatment, as determined by the
5 receiving hospital or other receiving health facility, based upon
6 the decision of a professional person duly authorized by law to
7 make ~~such a~~ *that* decision, shall not constitute discrimination for
8 the purposes of this section, if the transferring hospital has not
9 been designated as an evaluation facility by a county pursuant to
10 Section 5150 of the Welfare and Institutions Code, and if the
11 transfer is in compliance with Section 1317.2.

12 (c) As a condition of licensure, each hospital shall require that
13 physicians and surgeons who serve on an “on-call” basis to the
14 hospital’s emergency room cannot refuse to respond to a call on
15 the basis of the patient’s ~~race, ethnicity, religion, national origin,~~
16 citizenship, age, ~~sex,~~ preexisting medical condition, ~~physical or~~
17 ~~mental handicap,~~ insurance status, economic status, ~~or~~ ability to
18 pay for medical services, *or any characteristic listed or defined*
19 *in subdivision (b) or (e) of Section 51 of the Civil Code*, except to
20 the extent that a circumstance such as age, sex, preexisting medical
21 condition, or physical or mental ~~handicap~~ *disability* is medically
22 significant to the provision of appropriate medical care to the
23 patient. If a contract between a physician and surgeon and hospital
24 for the provision of emergency room coverage presently prevents
25 the hospital from imposing those conditions, the conditions shall
26 be included in the contract as soon as is legally permissible.
27 Nothing in this section shall be construed as requiring that any
28 physician serve on an “on-call” basis.

29 (d) As a condition of licensure, all hospitals shall inform all
30 persons presented to an emergency room or their representatives
31 if any are present and the person is unable to understand verbal or
32 written communication, both orally and in writing, of the reasons
33 for the transfer or refusal to provide emergency services and care
34 and of the person’s right to emergency services and care prior to
35 transfer or discharge without regard to ability to pay. Nothing in
36 this subdivision requires notification of the reasons for the transfer
37 in advance of the transfer where a person is unaccompanied and
38 the hospital has made a reasonable effort to locate a representative,
39 and because of the person’s physical or mental condition,
40 notification is not possible. All hospitals shall prominently post a

1 sign in their emergency rooms informing the public of their rights.
2 Both the posted sign and written communication concerning the
3 transfer or refusal to provide emergency services and care shall
4 give the address of the department as the government agency to
5 contact in the event the person wishes to complain about the
6 hospital's conduct.

7 (e) If a hospital does not timely adopt the policies and protocols
8 required in this article, the hospital, in addition to denial or
9 revocation of any of its licenses, shall be subject to a fine not to
10 exceed one thousand dollars (\$1,000) each day after expiration of
11 60 days' written notice from the state department that the hospital's
12 policies or protocols required by this article are inadequate unless
13 the delay is excused by the state department upon a showing of
14 good and sufficient cause by the hospital. The notice shall include
15 a detailed statement of the state department's reasons for its
16 determination and suggested changes to the hospital's protocols
17 which would be acceptable to the state department.

18 (f) Each hospital's policies and protocols required in or under
19 this article shall be submitted for approval to the state department
20 by December 31, 1988.

21 SEC. 39. Section 11801 of the Health and Safety Code is
22 amended to read:

23 11801. The alcohol and drug program administrator, acting
24 through administrative channels designated pursuant to Section
25 11795, shall do all of the following:

26 (a) Coordinate and be responsible for the planning process,
27 including preparation of the county plan executing the negotiated
28 net amount contract, and Drug Medi-Cal contract, whichever is
29 applicable.

30 (b) (1) Recommend to the board of supervisors the provision
31 of services, establishment of facilities, contracting for services or
32 facilities, and other matters necessary or desirable in accomplishing
33 the purposes of this part.

34 (2) Exercise general supervision over the alcohol and other drug
35 program services provided under the county plan, negotiated net
36 amount contract, and Drug Medi-Cal contract, whichever is
37 applicable.

38 (c) Assure compliance with applicable laws relating to
39 discrimination against any person because of ~~race, creed, age,~~
40 ~~religion, sex, sexual preference, or disabling conditions~~ any

1 *characteristic listed or defined in Section 11135 of the Government*
2 *Code.*

3 (d) (1) Provide reports and information periodically to the
4 advisory board regarding the status of alcohol and other drug
5 programs in the county and keep the advisory board informed
6 regarding changes in relevant state, federal, and local laws or
7 regulations or improvements in program design and services that
8 may affect the county alcohol and other drug program.

9 (2) Submit an annual report to the board of supervisors reporting
10 all activities of the alcohol and other drug program, including a
11 financial accounting of expenditures and a forecast of anticipated
12 needs for the upcoming year.

13 (e) Be directly responsible for the administration of all alcohol
14 or other drug program funds allocated to the county under this
15 part, administration of county operated programs, and coordination
16 and monitoring of programs that have contracts with the county
17 to provide alcohol and other drug services.

18 (f) Encourage the appropriate utilization of all other public and
19 private alcohol and other drug programs and services in the county
20 in coordination with the programs funded pursuant to this part.

21 (g) Coordinate the activities of the county alcohol and other
22 drug program with appropriate health planning agencies pursuant
23 to Chapter 5 (commencing with Section 11820).

24 (h) Assure the evaluation of alcohol and other drug programs,
25 including the collection of appropriate and necessary information,
26 pursuant to Chapter 6 (commencing with Section 11825).

27 (i) Participate in the process to assure program quality in
28 compliance with appropriate standards pursuant to Chapter 7
29 (commencing with Section 11830).

30 (j) Participate in the regulations process pursuant to Chapter 8
31 (commencing with Section 11835).

32 (k) Participate and represent the county in meetings of the
33 County Alcohol and Drug Program Administrators Association of
34 California pursuant to Section 11811.5 for the purposes of
35 representing the counties in their relationship with the state with
36 respect to policies, standards, and administration for alcohol and
37 other drug abuse services.

38 (l) Provide for the orientation of the members of the advisory
39 board, including, but not limited to, the provision of information

1 and materials on alcohol and other drug problems and programs,
2 planning, procedures, and site visits to local programs.

3 (m) Perform any other acts that may be necessary, desirable, or
4 proper to carry out the purposes of this part.

5 SEC. 40. Section 10115.7 of the Public Contract Code is
6 amended to read:

7 10115.7. (a) Nothing in this article shall be construed to
8 authorize any awarding department to discriminate in the awarding
9 of any contract on the basis of ~~race, color, sex, ethnic origin, or~~
10 ~~ancestry or any characteristic listed or defined in Section 11135~~
11 ~~of the Government Code.~~

12 (b) Nothing in this article shall be construed to authorize any
13 contractor to discriminate in the solicitation or acceptance of bids
14 for subcontracting, or for materials or equipment, on the basis of
15 ~~race, color, sex, ethnic origin, or ancestry or any characteristic~~
16 ~~listed or defined in Section 11135 of the Government Code.~~

17 SEC. 41. Section 5080.18 of the Public Resources Code is
18 amended to read:

19 5080.18. All concession contracts entered into pursuant to this
20 article shall contain, but ~~shall are~~ not be limited to, all of the
21 following provisions:

22 (a) The maximum term shall be 10 years, except that a term of
23 more than 10 years may be provided if the director determines that
24 the longer term is necessary to allow the concessionaire to amortize
25 improvements made by the concessionaire, to facilitate the full
26 utilization of a structure that is scheduled by the department for
27 replacement or redevelopment, or to serve the best interests of the
28 state. The term shall not exceed 20 years without specific
29 authorization by statute.

30 (b) Every concessionaire shall submit to the department all sales
31 and use tax returns.

32 (c) Every concession shall be subject to audit by the department.

33 (d) A performance bond shall be obtained and maintained by
34 the concessionaire. In lieu of a bond, the concessionaire may
35 substitute a deposit of funds acceptable to the department. Interest
36 on the deposit shall accrue to the concessionaire.

37 (e) The concessionaire shall obtain and maintain in force at all
38 times a policy of liability insurance in an amount adequate for the
39 nature and extent of public usage of the concession and naming
40 the state as an additional insured.

1 (f) Any discrimination by the concessionaire or his or her agents
2 or employees against any person because of ~~the race, color,~~
3 ~~religion, sex, marital status, national origin, or ancestry of that~~
4 ~~person~~ *any characteristic listed or defined in subdivision (b) or*
5 *(e) of Section 51 of the Civil Code* is prohibited.

6 (g) To be effective, any modification of the concession contract
7 shall be evidenced in writing.

8 (h) Whenever a concession contract is terminated for substantial
9 breach, there shall be no obligation on the part of the state to
10 purchase any improvements made by the concessionaire.

11 SEC. 42. Section 5080.34 of the Public Resources Code is
12 amended to read:

13 5080.34. Every agreement entered into pursuant to this article
14 and every contract for a concession on lands that are subject to an
15 agreement entered into pursuant to this article shall expressly
16 prohibit discrimination against any person because of ~~the race,~~
17 ~~color, religion, sex, marital status, national origin, or ancestry of~~
18 ~~that person~~ *any characteristic listed or defined in subdivision (b)*
19 *or (e) of Section 51 of the Civil Code.*

20 SEC. 43. Section 453 of the Public Utilities Code is amended
21 to read:

22 453. (a) No public utility shall, as to rates, charges, service,
23 facilities, or in any other respect, make or grant any preference or
24 advantage to any corporation or person or subject any corporation
25 or person to any prejudice or disadvantage.

26 (b) No public utility shall prejudice, disadvantage, or require
27 different rates or deposit amounts from a person because of ~~race,~~
28 ~~religious creed, color, national origin, ancestry, physical handicap,~~
29 ~~medical condition, occupation, sex, marital status or change in~~
30 ~~marital status~~ *or any characteristic listed or defined in subdivision*
31 *(b) or (e) of Section 51 of the Civil Code.* A person who has
32 exhausted all administrative remedies with the commission may
33 institute a suit for injunctive relief and reasonable attorney's fees
34 in cases of an alleged violation of this subdivision. If successful
35 in litigation, the prevailing party shall be awarded attorney's fees.

36 (c) No public utility shall establish or maintain any unreasonable
37 difference as to rates, charges, service, facilities, or in any other
38 respect, either as between localities or as between classes of
39 service.

1 (d) No public utility shall include with any bill for services or
2 commodities furnished any customer or subscriber any advertising
3 or literature designed or intended (1) to promote the passage or
4 defeat of a measure appearing on the ballot at any election whether
5 local, statewide, or national, (2) to promote or defeat any candidate
6 for nomination or election to any public office, (3) to promote or
7 defeat the appointment of any person to any administrative or
8 executive position in federal, state or local government, or (4) to
9 promote or defeat any change in federal, state, or local legislation
10 or regulations.

11 (e) The commission may determine any question of fact arising
12 under this section.

13 SEC. 44. Section 12751.3 of the Public Utilities Code is
14 amended to read:

15 12751.3. (a) The purpose of this section is to provide affected
16 districts with an alternative acquisition process that will result in
17 reduced costs to ratepayers. Notwithstanding Section 12751, when
18 the expenditure for the purchase of supplies and materials exceeds
19 fifty thousand dollars (\$50,000) and the district determines that
20 ratepayers reasonably can expect a net benefit in the cost of district
21 services, the district may provide for the purchase of the supplies
22 and materials by contract let in accordance with best value at the
23 lowest cost acquisition policies adopted by the board pursuant to
24 this section.

25 (b) The best value at the lowest cost acquisition policies adopted
26 pursuant to subdivision (a) shall include the following:

27 (1) Price and service level proposals that reduce the district's
28 overall operating costs.

29 (2) Supplies and materials standards that support the district's
30 strategic supplies and materials acquisition and management
31 program direction.

32 (3) A procedure for protest and resolution.

33 (c) For purposes of this section, "best value at the lowest cost
34 acquisition" means a competitive procurement process whereby
35 the award of a contract for supplies and materials may take into
36 consideration any of the following factors:

37 (1) The total cost to the district of its use or consumption of
38 supplies and materials.

39 (2) The operational cost or benefit incurred by the district as a
40 result of the contract award.

- 1 (3) The value to the district of vendor-added services.
- 2 (4) The quality, effectiveness, and innovation of supplies,
- 3 materials, and services.
- 4 (5) The reliability of delivery or installation schedules.
- 5 (6) The terms and conditions of product warranties and vendor
- 6 guarantees.
- 7 (7) The financial stability of the vendor.
- 8 (8) The vendor's quality assurance program.
- 9 (9) The vendor's experience with the provision of supplies,
- 10 materials, and services.
- 11 (10) The consistency of the vendor's proposed supplies,
- 12 materials, and services with the district's overall supplies and
- 13 materials procurement program.
- 14 (11) The economic benefits to the general community related
- 15 to job creation or retention.
- 16 (d) If a district that did not purchase supplies and materials by
- 17 contract let pursuant to this section before January 1, 2006, elects
- 18 to purchase supplies and materials by contract, let in accordance
- 19 with best value acquisition policies adopted by the board pursuant
- 20 to this section, the district shall submit a report to the Legislative
- 21 Analyst on or before January 1, 2011. The district shall include in
- 22 the report a summary of the costs and benefits of best value
- 23 acquisition compared to traditional low bid procurement practices.
- 24 The report shall also include statistics showing the number of
- 25 contracts awarded to small businesses, minority-owned businesses,
- 26 and new businesses and the number of years each contract awardee
- 27 had been in business. The report shall also include an analysis of
- 28 the effects of best value procurement practices on these businesses,
- 29 the nature of any disputes arising from the use of best value
- 30 procurement practices, and the status of those disputes. On or
- 31 before April 1, 2011, the Legislative Analyst shall report to the
- 32 Legislature on the use of "best value at lowest cost acquisition"
- 33 procurement practices used by municipal utility districts, and
- 34 recommend whether to modify this section and extend the authority
- 35 of additional districts to elect to purchase supplies and materials
- 36 by contract let in accordance with best value acquisition policies,
- 37 beyond January 1, 2012.
- 38 (e) The district shall ensure that all businesses have a fair and
- 39 equitable opportunity to compete for, and participate in, district
- 40 contracts and shall also ensure that discrimination in the award

1 and performance of contracts does not occur on the basis of ~~race,~~
2 ~~color, sex, national origin, marital status, sexual preference, creed,~~
3 ~~ancestry, medical condition, any characteristic listed or defined~~
4 ~~in Section 11135 of the Government Code, or retaliation for having~~
5 ~~filed a discrimination complaint in the performance of district~~
6 ~~contractual obligations.~~

7 (f) A district that did not purchase supplies and materials by
8 contract let pursuant to this section before January 1, 2006, shall
9 not purchase supplies and materials by contract let pursuant to this
10 section after January 1, 2012.

11 SEC. 45. Section 17269 of the Revenue and Taxation Code,
12 as added by Section 4 of Chapter 1139 of the Statutes of 1987, is
13 repealed.

14 ~~17269.—Whereas, the people of the State of California desire~~
15 ~~to promote and achieve tax equity and fairness among all the state's~~
16 ~~citizens and further desire to conform to the public policy of~~
17 ~~nondiscrimination, the Legislature hereby enacts the following for~~
18 ~~these reasons and for no other purpose:~~

19 (a) ~~The provisions of Section 162(a) of the Internal Revenue~~
20 ~~Code shall not be applicable to expenses incurred by a taxpayer~~
21 ~~with respect to expenditures made at, or payments made to, a club~~
22 ~~which restricts membership or the use of its services or facilities~~
23 ~~on the basis of age, sex, race, religion, color, ancestry, or national~~
24 ~~origin.~~

25 (b) ~~A club described in subdivision (a) holding an alcoholic~~
26 ~~beverage license pursuant to Division 9 (commencing with Section~~
27 ~~23000) of the Business and Professions Code, except a club holding~~
28 ~~an alcoholic beverage license pursuant to Section 23425 thereof,~~
29 ~~shall provide on each receipt furnished to a taxpayer a printed~~
30 ~~statement as follows:~~

31 ~~“The expenditures covered by this receipt are nondeductible for~~
32 ~~state income tax purposes or franchise tax purposes.”~~

33 (c) ~~For purposes of this section:~~

34 (1) ~~“Expenses” means those expenses otherwise deductible~~
35 ~~under Section 162(a) of the Internal Revenue Code, except for~~
36 ~~subdivision (a); and includes, but is not limited to, club membership~~
37 ~~dues and assessments, food and beverage expenses, expenses for~~
38 ~~services furnished by the club, and reimbursements or salary~~
39 ~~adjustments to officers or employees for any of the preceding~~
40 ~~expenses.~~

1 (2) “Club” means a club as defined in Division 9 (commencing
2 with Section 23000) of the Business and Professions Code, except
3 a club as defined in Section 23425 thereof.

4 SEC. 46. Section 17269 of the Revenue and Taxation Code,
5 as added by Section 2 of Chapter 1463 of the Statutes of 1987, is
6 amended to read:

7 17269. Whereas, the people of the State of California desire
8 to promote and achieve tax equity and fairness among all the state's
9 citizens and further desire to conform to the public policy of
10 nondiscrimination, the Legislature hereby enacts the following for
11 these reasons and for no other purpose:

12 (a) The provisions of Section 162 (a) of the Internal Revenue
13 Code shall not be applicable to expenses incurred by a taxpayer
14 with respect to expenditures made at, or payments made to, a club
15 which restricts membership or the use of its services or facilities
16 on the basis of age, sex, race, religion, color, ancestry; or national
17 origin *any characteristic listed or defined in Section 11135 of the*
18 *Government Code.*

19 (b) A club described in subdivision (a) holding an alcoholic
20 beverage license pursuant to Division 9 (commencing with Section
21 23000) of the Business and Professions Code, except a club holding
22 an alcoholic beverage license pursuant to Section 23425 thereof,
23 shall provide on each receipt furnished to a taxpayer a printed
24 statement as follows:

25 “The expenditures covered by this receipt are nondeductible for
26 state income tax purposes or franchise tax purposes.”

27 (c) For purposes of this section:

28 (1) “Expenses” means those expenses otherwise deductible
29 under Section 162(a) of the Internal Revenue Code, except for
30 subdivision (a), and includes, but is not limited to, club membership
31 dues and assessments, food and beverage expenses, expenses for
32 services furnished by the club, and reimbursements or salary
33 adjustments to officers or employees for any of the preceding
34 expenses.

35 (2) “Club” means a club as defined in Division 9 (commencing
36 with Section 23000) of the Business and Professions Code, except
37 a club as defined in Section 23425 thereof.

38 SEC. 47. Section 24343.2 of the Revenue and Taxation Code
39 is amended to read:

1 24343.2. Whereas, the people of the State of California desire
2 to promote and achieve tax equity and fairness among all the state's
3 citizens and further desire to conform to the public policy of
4 nondiscrimination, the Legislature hereby enacts the following for
5 these reasons and for no other purpose:

6 (a) No deduction shall be allowed under Section 24343 for
7 expenses incurred by a taxpayer with respect to expenditures made
8 at, or payments made to, a club which restricts membership or the
9 use of its services or facilities on the basis of ~~age, sex, race,~~
10 ~~religion, color, ancestry; or national origin~~ *any characteristic listed*
11 *or defined in Section 11135 of the Government Code.*

12 (b) A club described in subdivision (a) holding an alcoholic
13 beverage license pursuant to Division 9 (commencing with Section
14 23000) of the Business and Professions Code, except a club holding
15 an alcoholic beverage license pursuant to Section 23425 thereof,
16 shall provide on each receipt furnished to a taxpayer a printed
17 statement as follows:

18 “The expenditures covered by this receipt are nondeductible for
19 state income tax purposes or franchise tax purposes.”

20 (c) For purposes of this section:

21 (1) “Expenses” means those expenses otherwise deductible
22 under Section 24343, except for subdivision (a), and includes, but
23 is not limited to, club membership dues and assessments, food and
24 beverage expenses, expenses for services furnished by the club,
25 and reimbursements or salary adjustments to officers or employees
26 for any of the preceding expenses.

27 (2) “Club” means a club as defined in Division 9 (commencing
28 with Section 23000) of the Business and Professions Code, except
29 a club as defined in Section 23425 thereof.

30 SEC. 48. Section 4666 of the Welfare and Institutions Code is
31 amended to read:

32 4666. No regional center shall conduct any meeting, conference,
33 or other function in any facility that prohibits the admittance of
34 any person, or persons, on the basis of ~~race, religious creed, color,~~
35 ~~national origin, ancestry, sex, or disability~~ *any characteristic listed*
36 *or defined in Section 11135 of the Government Code.*

37 SEC. 49. Section 5348 of the Welfare and Institutions Code is
38 amended to read:

39 5348. (a) For purposes of subdivision (e) of Section 5346, any
40 county that chooses to provide assisted outpatient treatment

1 services pursuant to this article shall offer assisted outpatient
2 treatment services including, but not limited to, all of the following:

3 (1) Community-based, mobile, multidisciplinary, highly trained
4 mental health teams that use high staff-to-client ratios of no more
5 than 10 clients per team member for those subject to court-ordered
6 services pursuant to Section 5346.

7 (2) A service planning and delivery process that includes the
8 following:

9 (A) Determination of the numbers of persons to be served and
10 the programs and services that will be provided to meet their needs.
11 The local director of mental health shall consult with the sheriff,
12 the police chief, the probation officer, the mental health board,
13 contract agencies, and family, client, ethnic, and citizen
14 constituency groups as determined by the director.

15 (B) Plans for services, including outreach to families whose
16 severely mentally ill adult is living with them, design of mental
17 health services, coordination and access to medications, psychiatric
18 and psychological services, substance abuse services, supportive
19 housing or other housing assistance, vocational rehabilitation, and
20 veterans' services. Plans shall also contain evaluation strategies,
21 that shall consider cultural, linguistic, ~~gender, age,~~ and special
22 ~~needs of minorities~~ *based on any characteristic listed or defined*
23 *in Section 11135 of the Government Code* in the target populations.
24 Provision shall be made for staff with the cultural background and
25 linguistic skills necessary to remove barriers to mental health
26 services as a result of having limited-English-speaking ability and
27 cultural differences. Recipients of outreach services may include
28 families, the public, primary care physicians, and others who are
29 likely to come into contact with individuals who may be suffering
30 from an untreated severe mental illness who would be likely to
31 become homeless if the illness continued to be untreated for a
32 substantial period of time. Outreach to adults may include adults
33 voluntarily or involuntarily hospitalized as a result of a severe
34 mental illness.

35 (C) Provisions for services to meet the needs of persons who
36 are physically disabled.

37 (D) Provision for services to meet the special needs of older
38 adults.

1 (E) Provision for family support and consultation services,
2 parenting support and consultation services, and peer support or
3 self-help group support, where appropriate.

4 (F) Provision for services to be client-directed and that employ
5 psychosocial rehabilitation and recovery principles.

6 (G) Provision for psychiatric and psychological services that
7 are integrated with other services and for psychiatric and
8 psychological collaboration in overall service planning.

9 (H) Provision for services specifically directed to seriously
10 mentally ill young adults 25 years of age or younger who are
11 homeless or at significant risk of becoming homeless. These
12 provisions may include continuation of services that would still
13 be received through other funds had eligibility not been terminated
14 as a result of age.

15 (I) Services reflecting special needs of women from diverse
16 cultural backgrounds, including supportive housing that accepts
17 children, personal services coordinator therapeutic treatment, and
18 substance treatment programs that address gender specific trauma
19 and abuse in the lives of persons with mental illness, and vocational
20 rehabilitation programs that offer job training programs free of
21 gender bias and sensitive to the needs of women.

22 (J) Provision for housing for clients that is immediate,
23 transitional, permanent, or all of these.

24 (K) Provision for clients who have been suffering from an
25 untreated severe mental illness for less than one year, and who do
26 not require the full range of services, but are at risk of becoming
27 homeless unless a comprehensive individual and family support
28 services plan is implemented. These clients shall be served in a
29 manner that is designed to meet their needs.

30 (3) Each client shall have a clearly designated mental health
31 personal services coordinator who may be part of a
32 multidisciplinary treatment team who is responsible for providing
33 or assuring needed services. Responsibilities include complete
34 assessment of the client's needs, development of the client's
35 personal services plan, linkage with all appropriate community
36 services, monitoring of the quality and follow through of services,
37 and necessary advocacy to ensure each client receives those
38 services which are agreed to in the personal services plan. Each
39 client shall participate in the development of his or her personal
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of
2 the client, shall consult with the family and other significant
3 persons as appropriate.

4 (4) The individual personal services plan shall ensure that
5 persons subject to assisted outpatient treatment programs receive
6 age, gender, and culturally appropriate services, to the extent
7 feasible, that are designed to enable recipients to:

8 (A) Live in the most independent, least restrictive housing
9 feasible in the local community, and, for clients with children, to
10 live in a supportive housing environment that strives for
11 reunification with their children or assists clients in maintaining
12 custody of their children as is appropriate.

13 (B) Engage in the highest level of work or productive activity
14 appropriate to their abilities and experience.

15 (C) Create and maintain a support system consisting of friends,
16 family, and participation in community activities.

17 (D) Access an appropriate level of academic education or
18 vocational training.

19 (E) Obtain an adequate income.

20 (F) Self-manage their illnesses and exert as much control as
21 possible over both the day-to-day and long-term decisions that
22 affect their lives.

23 (G) Access necessary physical health care and maintain the best
24 possible physical health.

25 (H) Reduce or eliminate serious antisocial or criminal behavior,
26 and thereby reduce or eliminate their contact with the criminal
27 justice system.

28 (I) Reduce or eliminate the distress caused by the symptoms of
29 mental illness.

30 (J) Have freedom from dangerous addictive substances.

31 (5) The individual personal services plan shall describe the
32 service array that meets the requirements of paragraph (4), and to
33 the extent applicable to the individual, the requirements of
34 paragraph (2).

35 (b) Any county that provides assisted outpatient treatment
36 services pursuant to this article also shall offer the same services
37 on a voluntary basis.

38 (c) Involuntary medication shall not be allowed absent a separate
39 order by the court pursuant to Sections 5332 to 5336, inclusive.

1 (d) Each county that operates an assisted outpatient treatment
2 program pursuant to this article shall provide data to the State
3 Department of Mental Health and, based on the data, the
4 department shall report to the Legislature on or before May 1 of
5 each year in which the county provides services pursuant to this
6 article. The report shall include, at a minimum, an evaluation of
7 the effectiveness of the strategies employed by each program
8 operated pursuant to this article in reducing homelessness and
9 hospitalization of persons in the program and in reducing
10 involvement with local law enforcement by persons in the program.
11 The evaluation and report shall also include any other measures
12 identified by the department regarding persons in the program and
13 all of the following, based on information that is available:

14 (1) The number of persons served by the program and, of those,
15 the number who are able to maintain housing and the number who
16 maintain contact with the treatment system.

17 (2) The number of persons in the program with contacts with
18 local law enforcement, and the extent to which local and state
19 incarceration of persons in the program has been reduced or
20 avoided.

21 (3) The number of persons in the program participating in
22 employment services programs, including competitive employment.

23 (4) The days of hospitalization of persons in the program that
24 have been reduced or avoided.

25 (5) Adherence to prescribed treatment by persons in the program.

26 (6) Other indicators of successful engagement, if any, by persons
27 in the program.

28 (7) Victimization of persons in the program.

29 (8) Violent behavior of persons in the program.

30 (9) Substance abuse by persons in the program.

31 (10) Type, intensity, and frequency of treatment of persons in
32 the program.

33 (11) Extent to which enforcement mechanisms are used by the
34 program, when applicable.

35 (12) Social functioning of persons in the program.

36 (13) Skills in independent living of persons in the program.

37 (14) Satisfaction with program services both by those receiving
38 them and by their families, when relevant.

39 SEC. 50. Section 5806 of the Welfare and Institutions Code is
40 amended to read:

1 5806. The State Department of Mental Health shall establish
2 service standards that ensure that members of the target population
3 are identified, and services provided to assist them to live
4 independently, work, and reach their potential as productive
5 citizens. The department shall provide annual oversight of grants
6 issued pursuant to this part for compliance with these standards.
7 These standards shall include, but are not limited to, all of the
8 following:

9 (a) A service planning and delivery process that is target
10 population based and includes the following:

11 (1) Determination of the numbers of clients to be served and
12 the programs and services that will be provided to meet their needs.
13 The local director of mental health shall consult with the sheriff,
14 the police chief, the probation officer, the mental health board,
15 contract agencies, and family, client, ethnic and citizen
16 constituency groups as determined by the director.

17 (2) Plans for services, including outreach to families whose
18 severely mentally ill adult is living with them, design of mental
19 health services, coordination and access to medications, psychiatric
20 and psychological services, substance abuse services, supportive
21 housing or other housing assistance, vocational rehabilitation, and
22 veterans' services. Plans shall also contain evaluation strategies,
23 that shall consider cultural, linguistic, gender, age, and special
24 needs of minorities in the target populations. Provision shall be
25 made for staff with the cultural background and linguistic skills
26 necessary to remove barriers to mental health services due to
27 limited-English-speaking ability and cultural differences.
28 Recipients of outreach services may include families, the public,
29 primary care physicians, and others who are likely to come into
30 contact with individuals who may be suffering from an untreated
31 severe mental illness who would be likely to become homeless if
32 the illness continued to be untreated for a substantial period of
33 time. Outreach to adults may include adults voluntarily or
34 involuntarily hospitalized as a result of a severe mental illness.

35 (3) Provisions for services to meet the needs of target population
36 clients who are physically disabled.

37 (4) Provision for services to meet the special needs of older
38 adults.

1 (5) Provision for family support and consultation services,
2 parenting support and consultation services, and peer support or
3 self-help group support, where appropriate for the individual.

4 (6) Provision for services to be client-directed and that employ
5 psychosocial rehabilitation and recovery principles.

6 (7) Provision for psychiatric and psychological services that are
7 integrated with other services and for psychiatric and psychological
8 collaboration in overall service planning.

9 (8) Provision for services specifically directed to seriously
10 mentally ill young adults 25 years of age or younger who are
11 homeless or at significant risk of becoming homeless. These
12 provisions may include continuation of services that would still
13 be received through other funds had eligibility not been terminated
14 due to age.

15 (9) Services reflecting special needs of women from diverse
16 cultural backgrounds, including supportive housing that accepts
17 children, personal services coordinator therapeutic treatment, and
18 substance treatment programs that address gender specific trauma
19 and abuse in the lives of persons with mental illness, and vocational
20 rehabilitation programs that offer job training programs free of
21 gender bias and sensitive to the needs of women.

22 (10) Provision for housing for clients that is immediate,
23 transitional, permanent, or all of these.

24 (11) Provision for clients who have been suffering from an
25 untreated severe mental illness for less than one year, and who do
26 not require the full range of services but are at risk of becoming
27 homeless unless a comprehensive individual and family support
28 services plan is implemented. These clients shall be served in a
29 manner that is designed to meet their needs.

30 (b) Each client shall have a clearly designated mental health
31 personal services coordinator who may be part of a
32 multidisciplinary treatment team who is responsible for providing
33 or assuring needed services. Responsibilities include complete
34 assessment of the client's needs, development of the client's
35 personal services plan, linkage with all appropriate community
36 services, monitoring of the quality and follow through of services,
37 and necessary advocacy to ensure each client receives those
38 services which are agreed to in the personal services plan. Each
39 client shall participate in the development of his or her personal
40 services plan, and responsible staff shall consult with the designated

1 conservator, if one has been appointed, and, with the consent of
2 the client, consult with the family and other significant persons as
3 appropriate.

4 (c) The individual personal services plan shall ensure that
5 members of the target population involved in the system of care
6 receive ~~age, gender, and~~ culturally appropriate services *or*
7 *appropriate services based on any characteristic listed or defined*
8 *in Section 11135 of the Government Code*, to the extent feasible,
9 that are designed to enable recipients to:

10 (1) Live in the most independent, least restrictive housing
11 feasible in the local community, and for clients with children, to
12 live in a supportive housing environment that strives for
13 reunification with their children or assists clients in maintaining
14 custody of their children as is appropriate.

15 (2) Engage in the highest level of work or productive activity
16 appropriate to their abilities and experience.

17 (3) Create and maintain a support system consisting of friends,
18 family, and participation in community activities.

19 (4) Access an appropriate level of academic education or
20 vocational training.

21 (5) Obtain an adequate income.

22 (6) Self-manage their illness and exert as much control as
23 possible over both the day-to-day and long-term decisions which
24 affect their lives.

25 (7) Access necessary physical health care and maintain the best
26 possible physical health.

27 (8) Reduce or eliminate serious antisocial or criminal behavior
28 and thereby reduce or eliminate their contact with the criminal
29 justice system.

30 (9) Reduce or eliminate the distress caused by the symptoms of
31 mental illness.

32 (10) Have freedom from dangerous addictive substances.

33 (d) The individual personal services plan shall describe the
34 service array that meets the requirements of subdivision (c), and
35 to the extent applicable to the individual, the requirements of
36 subdivision (a).

37 SEC. 51. Section 10000 of the Welfare and Institutions Code
38 is amended to read:

39 10000. The purpose of this division is to provide for protection,
40 care, and assistance to the people of the state in need thereof, and

1 to promote the welfare and happiness of all of the people of the
2 state by providing appropriate aid and services to all of its needy
3 and distressed. It is the legislative intent that aid shall be
4 administered and services provided promptly and humanely, with
5 due regard for the preservation of family life, and without
6 discrimination on account of ~~race, national origin or ancestry,~~
7 ~~religion, sex,~~ marital status, ~~or political affiliation; and that, or any~~
8 *characteristic listed or defined in Section 11135 of the Government*
9 *Code. That aid shall be so administered and services so provided,*
10 to the extent not in conflict with federal law, as to encourage
11 self-respect, self-reliance, and the desire to be a good citizen, useful
12 to society.

13 SEC. 52. Section 16522.1 of the Welfare and Institutions Code
14 is amended to read:

15 16522.1. In order to be licensed pursuant to Section 1559.110
16 of the Health and Safety Code, an applicant shall obtain
17 certification from the county department of social services or the
18 county probation department that the facility program provides all
19 of the following:

20 (a) (1) Admission criteria for participants in the program,
21 including, but not limited to, consideration of the applicant's age,
22 previous placement history, delinquency history, history of drug
23 or alcohol abuse, current strengths, level of education, mental
24 health history, medical history, prospects for successful
25 participation in the program, and work experience. Youth who are
26 wards of the court described in Section 602 and youth receiving
27 psychotropic medications shall be eligible for consideration to
28 participate in the program, and shall not be automatically excluded
29 due to these factors.

30 (2) The department shall review the admission criteria to ensure
31 that the criteria are sufficient to protect participants and that they
32 do not discriminate on the basis of ~~race, gender, sexual orientation,~~
33 ~~or disability~~ *any characteristic listed or defined in Section 11135*
34 *of the Government Code.*

35 (b) Strict employment criteria that include a consideration of
36 the employee's age, drug or alcohol history, and experience in
37 working with persons in this age group.

38 (c) A training program designed to educate employees who
39 work directly with participants about the characteristics of persons
40 in this age group placed in long-term care settings, and designed

1 to ensure that these employees are able to adequately supervise
2 and counsel participants and to provide them with training in
3 independent living skills.

4 (d) A detailed plan for monitoring the placement of persons
5 under the licensee's care.

6 (e) A contract between the participating person and the licensee
7 that specifically sets out the requirements for each party, and in
8 which the licensee and the participant agree to the requirements
9 of this article.

10 (f) An allowance to be provided to each participant in the
11 program. In the case of a participant living independently, this
12 allowance shall be sufficient for the participant to purchase food
13 and other necessities.

14 (g) A system for payment for utilities, telephone, and rent.

15 (h) Policies regarding all of the following:

16 (1) Education requirements.

17 (2) Work expectations.

18 (3) Savings requirements.

19 (4) Personal safety.

20 (5) Visitors including, but not limited to, visitation by the
21 placement auditor pursuant to subdivision (d).

22 (6) Emergencies.

23 (7) Medical problems.

24 (8) Disciplinary measures.

25 (9) Child care.

26 (10) Pregnancy.

27 (11) Curfew.

28 (12) Apartment cleanliness.

29 (13) Use of utilities and telephone.

30 (14) Budgeting.

31 (15) Care of furnishings.

32 (16) Decorating of apartments.

33 (17) Cars.

34 (18) Lending or borrowing money.

35 (19) Unauthorized purchases.

36 (20) Dating.

37 (21) Grounds for termination that may include, but shall not be
38 limited to, illegal activities or harboring runaways.

39 (i) Apartment furnishings, and a policy on disposition of the
40 furnishings when the participant completes the program.

1 (j) Evaluation of the participant's progress in the program and
2 reporting to the independent living program and to the department
3 regarding that progress.

4 (k) A linkage to the federal Job Training and Partnership Act
5 (29 U.S.C. Sec. 1501 et seq.) program administered in the local
6 area to provide employment training to eligible participants.

7 SEC. 53. Section 18907 of the Welfare and Institutions Code
8 is amended to read:

9 18907. In the determination of eligibility for food stamps, there
10 shall be no discrimination against any household by reason of ~~race,~~
11 ~~color, religious creed, national origin, sex,~~ marital status, ~~or~~
12 *political belief, or any characteristic listed or defined in Section*
13 *11135 of the Government Code* to the extent not in conflict with
14 federal law.

15 SEC. 54. The changes made by Sections 2, 3, 4, 5, 6, 7, 8, 10,
16 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34,
17 37, 38, 41, 42, and 43 of this act that become effective January 1,
18 2008, are intended to be construed as illustrative, rather than
19 restrictive.

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 64

Introduced by Assembly Member Berg

(Coauthors: Assembly Members Beall, De Leon, DeVore, Huffman, Horton, Jeffries, Jones, Krekorian, Niello, Portantino, Richardson, and Wolk)

December 4, 2006

An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes, in the Governor's office, the Office of Emergency Services, which, among other things, coordinates state emergency services in the event of a natural disaster. Existing law requires the Office of Emergency Services, in consultation with appropriate state and local governmental agencies and volunteer agencies, to develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. Existing law also, until March 1, 2007, ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact. *the Emergency Medical Services Authority, in the Health and Welfare Agency, to establish planning and implementation guidelines for emergency medical service systems, as specified. The guidelines are required to address, among other things, disaster response, and the authority is required to provide technical assistance*

to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems. The authority is required to adopt rules and regulations, approved by the Commission on Emergency Medical Services, in order to carry out its duties.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register volunteer health practitioners with valid and current licenses in other states. The bill would allow such a volunteer to practice, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state or local emergency, and would require a host entity in this state to consult and coordinate its activities with the ~~Office of Emergency Services~~ *Emergency Medical Services Authority* to the extent practicable. ~~The bill would allow the office to, pursuant to the Emergency Management Assistance Compact, incorporate into the emergency forces of this state or a local government in this state registered volunteer health practitioners who are not officials or employees of this state.~~

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the ~~Office of Emergency Services~~ *Emergency Medical Services Authority* and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would also permit a host entity to restrict the health or veterinary services that such a practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions are met. *The bill would authorize the authority to promulgate rules, after approval by the Commission on Emergency Medical Services, in order to implement the provisions of the Uniform Emergency Volunteer Health Practitioners Act.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.7 (commencing with Section 8599.5)
2 is added to Chapter 7 of Division 1 of Title 2 of the Government
3 Code, to read:

4
5 Article 7.7. Uniform Emergency Volunteer Health Practitioners
6 Act
7

8 8599.5. This article may be cited as the Uniform Emergency
9 Volunteer Health Practitioners Act.

10 8599.51. For the purposes of this article, the following terms
11 have the following meanings:

12 (a) "Disaster relief organization" means an entity that provides
13 emergency or disaster relief services that include health or
14 veterinary services provided by volunteer health practitioners and
15 that meets either of the following requirements:

16 (1) It is designated or recognized as a provider of those services
17 pursuant to a disaster response and recovery plan adopted by an
18 agency of the federal government or the ~~Office of Emergency~~
19 ~~Services~~ *Emergency Medical Services Authority*.

20 (2) It regularly plans and conducts its activities in coordination
21 with an agency of the federal government or the ~~Office of~~
22 ~~Emergency Services~~ *Emergency Medical Services Authority*.

23 (b) "Emergency" means an event or condition that is a state of
24 emergency proclaimed pursuant to Section ~~8625 or 8588 or 8625~~,
25 a local emergency proclaimed pursuant to Section 8630, *a health*
26 *emergency proclaimed pursuant to Section 101080 of the Health*
27 *and Safety Code, or a state of war*.

28 (c) "Emergency declaration" means a proclamation of
29 emergency issued pursuant to Section ~~8625 or 8630~~ 8588, 8625,
30 *or 8630, a declaration of health emergency pursuant to Section*
31 *101080 of the Health and Safety Code, or a declaration of war by*
32 *the President of the United States*.

33 (d) "Emergency Management Assistance Compact" means the
34 interstate compact approved by Congress by Public Law No.
35 104-321 and ratified in Article 3.7 (commencing with Section 179)
36 of Chapter 1 of Division 1 of Title 1.

37 (e) "Entity" means a person other than an individual.

1 (f) "Health facility" means an entity licensed under the laws of
2 this or another state to provide health or veterinary services.

3 (g) "Health practitioner" means an individual licensed under
4 the laws of this or another state to provide health or veterinary
5 services.

6 (h) "Health services" means the provision of treatment, care,
7 advice, or guidance, or other services, or supplies, related to the
8 health or death of individuals or human populations, to the extent
9 necessary to respond to an emergency, including all of the
10 following:

11 (1) Services or supplies concerning the physical or mental
12 condition or functional status of an individual or affecting the
13 structure or function of the body, including the following:

14 (A) Preventive, diagnostic, therapeutic, rehabilitative,
15 maintenance, or palliative care.

16 (B) Counseling, assessment, procedures, or other services.

17 (2) The sale or dispensing of a drug, a device, equipment, or
18 another item to an individual in accordance with a prescription.

19 (3) Funeral, cremation, cemetery, or other mortuary services.

20 (i) "Host entity" means an entity operating in this state that uses
21 volunteer health practitioners to respond to an emergency.

22 (j) "License" means authorization by a state to engage in health
23 or veterinary services that are unlawful without the authorization.
24 *The term includes authorization under the laws of California to*
25 *provide health or veterinary services based upon a national*
26 *certification issued by a public or private entity.*

27 (k) "Person" means an individual, corporation, business trust,
28 trust, partnership, limited liability company, association, joint
29 venture, public corporation, government or governmental
30 subdivision, agency, or instrumentality, or any other legal or
31 commercial entity.

32 (l) "Scope of practice" means the extent of the authorization to
33 provide health or veterinary services granted to a health practitioner
34 by a license issued to the practitioner in the state in which the
35 principal part of the practitioner's services are rendered, including
36 any conditions imposed by the licensing authority in that state.

37 (m) "State" means a state of the United States, the District of
38 Columbia, Puerto Rico, the United States Virgin Islands, or any
39 territory or insular possession subject to the jurisdiction of the
40 United States.

1 (n) "Veterinary services" means the provision of treatment,
2 care, advice or guidance, or other services or supplies, related to
3 the health or death of an animal or to animal populations, to the
4 extent necessary to respond to an emergency, including all of the
5 following:

6 (1) Diagnosis, treatment, or prevention of an animal disease,
7 injury, or other physical or mental condition by the prescription,
8 administration, or dispensing of vaccine, medicine, surgery, or
9 therapy.

10 (2) Use of a procedure for reproductive management.

11 (3) Monitoring and treatment of animal populations for diseases
12 that have spread or demonstrate the potential to spread to humans.

13 (o) "Volunteer health practitioner" means a health practitioner
14 who provides health or veterinary services, whether or not the
15 practitioner receives compensation for those services. "Volunteer
16 health practitioner" does not include a practitioner who receives
17 compensation pursuant to a preexisting employment relationship
18 with a host entity or affiliate that requires the practitioner to provide
19 health services in this state, unless the practitioner is not a resident
20 of this state and is employed by a disaster relief organization
21 providing services in this state while an emergency declaration is
22 in effect.

23 8599.52. This article applies to volunteer health practitioners
24 registered with a registration system that complies with Section
25 8599.54 and who provide health or veterinary services in this state
26 for a host entity while an emergency declaration is in effect.

27 8599.53. (a) While an emergency declaration is in effect, the
28 ~~Office of Emergency Services~~ *Emergency Medical Services*
29 *Authority* may limit, restrict, or otherwise regulate all of the
30 following:

31 (1) The duration of practice by volunteer health practitioners.

32 (2) The geographical areas in which volunteer health
33 practitioners may practice.

34 (3) The types of volunteer health practitioners who may practice.

35 (4) Any other matters necessary to coordinate effectively the
36 provision of health or veterinary services during the emergency.

37 (b) An order issued pursuant to subdivision (a) may take effect
38 immediately, without prior notice or comment, and is not a
39 regulation within the meaning of the Administrative Procedure

1 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3).

3 (c) A host entity that uses volunteer health practitioners to
4 provide health or veterinary services in this state shall do both of
5 the following:

6 (1) Consult and coordinate its activities with the ~~Office of~~
7 ~~Emergency Services~~ *Emergency Medical Services Authority* to the
8 extent practicable to provide for the efficient and effective use of
9 volunteer health practitioners.

10 (2) Comply with any laws other than this article relating to the
11 management of emergency health or veterinary services.

12 8599.54. (a) To qualify as a volunteer health practitioner
13 registration system, a system must do all of the following:

14 (1) Accept applications for the registration of volunteer health
15 practitioners before or during an emergency.

16 (2) Include information about the licensure and good standing
17 of health practitioners that is accessible by authorized persons.

18 (3) Be capable of confirming the accuracy of information
19 concerning whether a health practitioner is licensed and in good
20 standing before health services or veterinary services are provided
21 under this article.

22 (4) Meet at least one of the following conditions:

23 (A) Be an emergency system for advance registration of
24 volunteer health care practitioners established by a state and funded
25 through the Health Resources Services Administration under
26 Section 319I of the Public Health Services Act (42 U.S.C. Sec.
27 247d-7b).

28 (B) Be a local unit consisting of trained and equipped emergency
29 response, public health, and medical personnel formed pursuant
30 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.
31 300hh).

32 (C) Be operated by one of the following:

33 (i) A disaster relief organization.

34 (ii) A licensing board or bureau established pursuant to Division
35 2 (commencing with Section 500) of, or Chapter 12 (commencing
36 with Section 7600) of Division 3 of, the Business and Professions
37 Code.

38 (iii) A national or regional association of licensing boards or
39 health practitioners.

1 (iv) A health facility that provides comprehensive inpatient and
2 outpatient health care services, including a tertiary care and
3 teaching hospital.

4 (v) A governmental entity.

5 (D) Be designated by the ~~Office of Emergency Services~~
6 *Emergency Medical Services Authority* as a registration system
7 for purposes of this article.

8 (b) While an emergency declaration is in effect, the ~~Office of~~
9 ~~Emergency Services~~ *Emergency Medical Services Authority*, a
10 person authorized to act on behalf of the ~~office~~ *authority*, or a host
11 entity may confirm whether volunteer health practitioners utilized
12 in this state are registered with a registration system that complies
13 with subdivision (a). Confirmation is limited to obtaining identities
14 of the practitioners from the system and determining whether the
15 system indicates that the practitioners are licensed and in good
16 standing.

17 (c) Upon request of a person in this state authorized to manage
18 the emergency response, or a similarly authorized person in another
19 state, a registration system located in this state shall notify the
20 person of the identities of volunteer health practitioners and
21 whether the practitioners are licensed and in good standing.

22 (d) A host entity is not required to use the services of a volunteer
23 health practitioner even if the practitioner is registered with a
24 registration system that indicates that the practitioner is licensed
25 and in good standing.

26 8599.55. (a) While an emergency declaration is in effect, a
27 volunteer health practitioner, registered with a registration system
28 that complies with Section 8599.54 and licensed and in good
29 standing in the state in which the practitioner's registration is based,
30 may practice in this state to the extent authorized by this article as
31 if the practitioner were licensed in this state.

32 (b) A volunteer health practitioner qualified under subdivision
33 (a) is not entitled to the protections of this article if the practitioner
34 is licensed in more than one state and any license of the practitioner
35 is suspended, revoked, or subject to an order limiting or restricting
36 practice privileges, or has been voluntarily terminated under threat
37 of sanction.

38 8599.56. (a) For purposes of this section, the following terms
39 have the following meanings:

1 (1) "Credentialing" means obtaining, verifying, and assessing
2 the qualifications of a health practitioner to provide treatment,
3 care, or services in or for a health facility.

4 (2) "Privileging" means the authorizing by an appropriate
5 authority, such as a governing body, of a health practitioner to
6 provide specific treatment, care, or services at a health facility
7 subject to limits based on factors that include license, education,
8 training, experience, competence, health status, and specialized
9 skill.

10 (b) This article does not affect credentialing or privileging
11 standards of a health facility and does not preclude a health facility
12 from waiving or modifying those standards while an emergency
13 declaration is in effect.

14 8599.57. (a) Subject to subdivisions (b) and (c), a volunteer
15 health practitioner shall adhere to the scope of practice for a
16 similarly licensed practitioner established by the licensing
17 provisions, practice acts, or other laws of this state.

18 (b) Except as otherwise provided in subdivision (c), this article
19 does not authorize a volunteer health practitioner to provide
20 services that are outside the practitioner's scope of practice, even
21 if a similarly licensed practitioner in this state would be permitted
22 to provide the services.

23 (c) The applicable licensing board or bureau may modify or
24 restrict the health services or veterinary services regulated by that
25 body that volunteer health practitioners may provide pursuant to
26 this article. An order under this subdivision may take effect
27 immediately, without prior notice or comment, and is not a
28 regulation within the meaning of the Administrative Procedure
29 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
30 Division 3).

31 (d) A host entity may restrict the health or veterinary services
32 that a volunteer health practitioner may provide pursuant to this
33 article.

34 (e) A volunteer health practitioner shall not be found to have
35 engaged in unauthorized practice unless the practitioner has reason
36 to know of any limitation, modification, or restriction under this
37 section or that a similarly licensed practitioner in this state would
38 not be permitted to provide the services. A volunteer health
39 practitioner has reason to know of a limitation, modification, or

1 restriction or that a similarly licensed practitioner in this state
2 would not be permitted to provide a service if either:

3 (1) The practitioner knows the limitation, modification, or
4 restriction exists or that a similarly licensed practitioner in this
5 state would not be permitted to provide the service.

6 (2) From all the facts and circumstances known to the
7 practitioner at the relevant time, a reasonable person would
8 conclude that the limitation, modification, or restriction exists or
9 that a similarly licensed practitioner in this state would not be
10 permitted to provide the service.

11 (f) In addition to the authority granted by the laws of this state,
12 other than this article, to regulate the conduct of health
13 practitioners, a licensing board or other disciplinary authority in
14 this state has the following powers and duties:

15 (1) It may impose administrative sanctions upon a health
16 practitioner licensed in this state for conduct outside of this state
17 in response to an out-of-state emergency.

18 (2) It may impose administrative sanctions upon a practitioner
19 not licensed in this state for conduct in this state in response to an
20 in-state emergency.

21 (3) It shall report any administrative sanctions imposed upon a
22 practitioner licensed in another state to the appropriate licensing
23 board or other disciplinary authority in any other state in which
24 the practitioner is known to be licensed.

25 (g) In determining whether to impose administrative sanctions
26 under subdivision (f), a licensing board or other disciplinary
27 authority shall consider the circumstances in which the conduct
28 took place, including any exigent circumstances, and the
29 practitioner's scope of practice, education, training, experience,
30 and specialized skill.

31 ~~8599.57. (a)~~

32 ~~8599.58. This article does not limit rights, privileges, or~~
33 ~~immunities provided to volunteer health practitioners by laws other~~
34 ~~than this article. Except as otherwise provided in subdivision (b);~~
35 ~~this article does not affect requirements for the use of health~~
36 ~~practitioners pursuant to the Emergency Management Assistance~~
37 ~~Compact.~~

38 ~~(b) The Office of Emergency Services, pursuant to the~~
39 ~~Emergency Management Assistance Compact, may incorporate~~
40 ~~into the emergency forces of this state volunteer health practitioners~~

1 ~~who are not officers or employees of this state, a political~~
2 ~~subdivision of this state, or a municipality or other local~~
3 ~~government within this state. *than this article.*~~

4 8599.6. ~~The Office of Emergency Services~~ *Emergency Medical*
5 *Services Authority* may promulgate rules, *after approval by the*
6 *Commission on Emergency Medical Services*, to implement this
7 article. In doing so, ~~the office authority~~ shall consult with and
8 consider the recommendations of the entity established to
9 coordinate the implementation of the Emergency Management
10 Assistance Compact and shall also consult with and consider rules
11 promulgated by similarly empowered agencies in other states to
12 promote uniformity of application of this article and make the
13 emergency response systems in the various states reasonably
14 compatible

15 8599.61. In applying and construing this article, consideration
16 shall be given to the need to promote uniformity of the law with
17 respect to its subject matter among states that enact it.

ASSEMBLY BILL

No. 106

Introduced by Assembly Member Berg

January 4, 2007

An act to add Section 120392.9 to the Health and Safety Code, relating to immunizations.

LEGISLATIVE COUNSEL'S DIGEST

AB 106, as introduced, Berg. Immunizations.

Under existing law, the State Department of Health Services is responsible for the licensure and regulation of health facilities, including general acute care hospitals, as defined.

Under existing law, the department also has responsibilities relating to the prevention and control of communicable diseases by various means, including requiring immunization by vaccine for various populations.

Existing law requires a skilled nursing facility, an intermediate care facility, or a nursing facility, as defined, to offer immunizations for influenza and pneumococcal disease to its residents, aged 65 years or older, between October 1 and April 1 of each year, and to offer pneumococcal vaccine to all new admittees. The facility is required to be reimbursed the standard Medi-Cal rate for vaccines provided to Medi-Cal recipients, except under specified circumstances. Existing law requires the facility to obtain informed consent for the immunization services from the resident or, if the person lacks the capacity to make medical decisions, for the person legally authorized to make medical decisions on the resident's behalf.

This bill would require a general acute care hospital, pursuant to its own standardized procedures and if it has the vaccine in its possession,

each year, commencing October 1 to the following April 1, inclusive, to offer, prior to discharge, immunizations for influenza and pneumococcal disease to its inpatients, aged 65 years or older.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 120392.9 is added to the Health and
2 Safety Code, to read:
3 120392.9. Pursuant to its standardized procedures and if it has
4 the vaccine in its possession, each year, commencing October 1
5 to the following April 1, inclusive, a general acute care hospital,
6 as defined in subdivision (a) of Section 1250, shall offer, prior to
7 discharge, immunizations for influenza and pneumococcal disease
8 to inpatients, aged 65 years or older, based upon the latest
9 recommendation of the Advisory Committee on Immunization
10 Practices of the federal Centers for Disease Control and Prevention,
11 and the latest recommendations of appropriate entities for the
12 prevention, detection, and control of influenza outbreaks in
13 California general acute care hospitals.

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 329

Introduced by Assembly Member Nakanishi

February 13, 2007

~~An act relating to healing arts.~~ *An act to add Section 2028.5 to the Business and Professions Code, relating to medicine.*

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as amended, Nakanishi. Chronic diseases: telemedicine.

Existing law, the Medical Practice Act, *creates the Medical Board of California that is responsible for issuing a physician and surgeon's certificate to practice medicine and for regulating the practice of physicians and surgeons. The act also regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications.*

~~This bill would declare the intent of the Legislature to enact legislation enabling the Medical Board of California to bring all interested parties together to discuss the various~~ *require the board to establish a pilot program to expand the practice of telemedicine and would authorize the board to implement the program by convening a working group to discuss the means of delivering health care to those with chronic diseases using telemedicine, and requiring the group health information technologies. The bill would require the board to make recommendations regarding its findings to the Legislature on or before January 1, 2009.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2028.5 is added to the Business and
2 Professions Code, to read:

3 2028.5. (a) The board shall establish a pilot program to
4 expand the practice of telemedicine in this state.

5 (b) The board may implement this pilot program by convening
6 a working group of interested parties from the public and private
7 sectors, including, but not limited to, state health-related agencies,
8 health care providers, health plan administrators, information
9 technology groups, and groups representing health care
10 consumers.

11 (c) The members of the working group shall discuss the means
12 of delivering health care to those with chronic diseases, and assist
13 in developing a plan for offering the best practices in a
14 telemedicine model in order to reach all Californians, using
15 innovative health information technologies as a means by which
16 to share nationally accepted chronic disease management
17 techniques throughout the state.

18 (d) The board shall make a report with its recommendations
19 regarding its findings to the Legislature on or before January 1,
20 2009. The report shall include an evaluation of the improvement
21 and affordability of health care services and the reduction in the
22 number of complications achieved by the pilot program.

23 ~~SECTION 1. It is the intent of the Legislature to enact~~
24 ~~legislation that would enable the Medical Board of California to~~
25 ~~bring all interested parties together to discuss the various means~~
26 ~~of delivering health care to those with chronic diseases, using best~~
27 ~~practices in a telemedicine model in order to reach all Californians,~~
28 ~~and that would require the group to make recommendations~~
29 ~~regarding its findings to the Legislature on or before January 1,~~
30 ~~2009.~~

ASSEMBLY BILL

No. 374

**Introduced by Assembly Members Berg, Levine, and Nunez
(Principal coauthor: Assembly Member Feuer)**

**(Coauthors: Assembly Members Bass, Beall, Brownley, De Leon,
DeSaulnier, Dymally, Eng, Evans, Huffman, Jones, Karnette,
Laird, Leno, Ma, Saldana, and Wolk)**

**(Coauthors: Senators Calderon, Kuehl, Lowenthal, Oropeza, Romero,
Steinberg, and Wiggins)**

February 15, 2007

An act to add Chapter 3.95 (commencing with Section 7195) to Part 1 of Division 7 of the Health and Safety Code, relating to death.

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as introduced, Berg. California Compassionate Choices Act.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. Effective July 1, 2007, responsibility for the administration of the abovementioned provisions will be transferred to the State Department of Public Health.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the California Compassionate Choices Act, which would authorize an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for medication prescribed pursuant to this bill to provide comfort with an

assurance of peaceful dying if suffering becomes unbearable. The bill would establish procedures for making these requests.

This bill would further provide that no provision in a contract, will, or other agreement, or in a health care service plan contract, policy of disability insurance, or health benefit plan contract, shall be valid to the extent it would affect whether a person may make or rescind a request for the above-described medication. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, or the rate charged for any policy, from being conditioned upon or affected by the request. The bill would require that nothing in its provisions be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute suicide or homicide.

This bill would provide immunity from civil or criminal liability or professional disciplinary action for participating in good faith compliance with the act. The bill would provide that no health care provider is under any duty to participate in providing to a qualified patient medication to end that patient's life and would authorize a general acute care hospital to prohibit a licensed physician from carrying out a patient's request under this act on the premises of the hospital if the hospital has notified the licensed physician of its policy regarding this act.

This bill would require the State Department of Public Health to adopt regulations regarding the collection of information to determine the use of and compliance with the act, and would require the department to annually review a sample of certain records and make a statistical report of the information collected.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 3.95 (commencing with Section 7195)
- 2 is added to Part 1 of Division 7 of the Health and Safety Code, to
- 3 read:

1 CHAPTER 3.95. CALIFORNIA COMPASSIONATE CHOICES ACT

2
3 Article 1. General Provisions

4
5 7195. (a) The Legislature believes that dying patients should
6 have choices throughout the continuum of palliative care and that
7 much must be done to improve access to hospice care and pain
8 management. Hospice and effective palliative care successfully
9 assist many thousands of terminally ill patients to die with dignity
10 and without pain, and the Legislature hopes that all patients
11 considering the procedures available under this chapter will
12 properly consider other options, including hospice care and
13 effective pain management. The Legislature finds that medical
14 studies have shown that between 5 and 10 percent of dying patients
15 experience severe pain and suffering that cannot be palliated by
16 the best hospice or comfort care. The Legislature finds that in
17 response to the Death with Dignity Act in the State of Oregon, that
18 the referrals to hospice increased significantly. In addition, doctors
19 significantly increased the use of morphine and other strong pain
20 medications, thus improving the end-of-life care for more dying
21 patients.

22 (b) (1) It is the intent of the Legislature that the personal and
23 autonomous choice of dying patients regarding the time and manner
24 of their death provided under this chapter be viewed as but one of
25 several end-of-life options for dying patients.

26 (2) It is the intent of the Legislature that this chapter be strictly
27 construed and not expanded in any manner. The restrictions and
28 safeguards in the provisions of this chapter are based on the intent
29 of the Legislature to balance the personal and autonomous choice
30 of dying patients regarding the time and manner of their death and
31 the Legislature's goal of providing safeguards to ensure that there
32 are not instances of a coerced, unwanted, or early death by a
33 vulnerable dying patient.

34 (3) The Legislature finds and declares that historically persons
35 with disabilities have been subject to discrimination in the
36 provision of medical care and have been treated by some as though
37 their lives were less valuable or worthy of maintenance than those
38 without disabilities. The Legislature finds that this discriminatory
39 conduct is both illegal and reprehensible.

1 (4) It is the intent of the Legislature that a disability or age alone
2 is not a reason for a patient to be a qualified patient as defined in
3 subdivision (I) of Section 7195.1. Any disabled individual or
4 elderly person, and any physician who is the attending physician
5 to these individuals, must strictly comply with all of the provisions
6 of this chapter. Strict and rigorous attention must be evidenced in
7 distinguishing chronic conditions, that are not eligible conditions
8 under this chapter, and terminal illnesses, which are eligible, as
9 described in this chapter.

10 (5) It is the intent of the Legislature for the physician discussions
11 and written patient documents in this chapter to be translated in a
12 manner that is consistent with Section 7295.2 of the Government
13 Code, Section 10133.8 of the Insurance Code, and Section 1367.04
14 if the otherwise qualified patient is non-English proficient and
15 meets the criteria of those sections.

16 7195.1. For purposes of this chapter the following definitions
17 shall apply:

18 (a) "Adult" means an individual who is 18 years of age or older.

19 (b) "Attending physician" means the physician who has primary
20 responsibility for the care of the patient and for treatment of the
21 patient's terminal disease.

22 (c) "Capable" means that in the opinion of the patient's attending
23 physician or consulting physician, a patient has the ability to make
24 and communicate health care decisions to health care providers,
25 including communication through persons familiar with the
26 patient's manner of communicating, if those persons are available.

27 (d) "Consulting physician" means a physician, other than the
28 attending physician, who is qualified by specialty or experience
29 to make a professional diagnosis and prognosis regarding the
30 patient's disease.

31 (e) "Counseling" means a consultation between a state licensed
32 psychiatrist or psychologist and a patient for the purpose of
33 determining whether the patient is suffering from a psychiatric or
34 psychological disorder, or depression causing impaired judgment.

35 (f) "Health care provider" means a person licensed, certified,
36 or otherwise authorized or permitted by the law of this state to
37 administer health care in the ordinary course of business or practice
38 of a profession, and includes a licensed health care facility.

39 (g) (1) "Health care facility" means any health facility described
40 in Section 1250.

1 (2) "Hospice" means a comprehensive, interdisciplinary program
2 of medical and socially supportive care delivered to patients with
3 a terminal disease in order to palliate their symptoms and pain
4 since the patient's condition is no longer amenable to curative
5 therapies and for whom the primary therapeutic goal is comfort
6 and dignity at the end of life.

7 (h) "Informed decision" means a decision, made by a qualified
8 patient, to request and obtain a prescription to end his or her life
9 in a humane and dignified manner, that is not based on coercion
10 by the patient's next-of-kin or any other third parties, is based on
11 an appreciation of the relevant facts, and is made after being fully
12 informed by the attending physician of all of the following:

13 (1) His or her medical diagnosis.

14 (2) His or her prognosis.

15 (3) The potential risk associated with taking the medication to
16 be prescribed.

17 (4) The probable result of taking the medication to be prescribed.

18 (5) The feasible alternatives, as provided in paragraph (5) of
19 subdivision (b) of Section 7196, including, but not limited to,
20 comfort care, hospice care, and pain control.

21 (i) "Medically confirmed" means the medical opinion of the
22 attending physician has been confirmed by a consulting physician
23 who has examined the patient and the patient's relevant medical
24 records.

25 (j) "Medication" means medication prescribed pursuant to this
26 chapter to provide comfort with an assurance of peaceful dying if
27 suffering becomes unbearable.

28 (k) "Patient" means a person who is under the care of a
29 physician.

30 (l) "Physician" means a doctor of medicine or osteopathy
31 licensed to practice medicine by the Medical Board of California.

32 (m) "Qualified patient" means a capable adult who is a resident
33 of California and has satisfied the requirements of this chapter in
34 order to obtain a prescription for medication.

35 (n) "Resident" means a person who has lived in a principal place
36 of residence in the State of California for six months or more.

37 (o) "Terminal disease" means an incurable and irreversible
38 disease that has been medically confirmed and will, within
39 reasonable medical judgment, produce death within six months.

1 (5) The feasible alternatives, including, but not limited to,
2 comfort care, hospice care, and pain control. This disclosure must
3 be provided in writing to the patient, and shall include, but not be
4 limited to, contact information about locally based providers of
5 comfort and hospice care.

6 (c) Refer the patient to a consulting physician for medical
7 confirmation of the diagnosis, and for a determination that the
8 patient is capable and acting voluntarily.

9 (d) Refer the patient for counseling, if appropriate pursuant to
10 Section 7196.2.

11 (e) Request that the patient notify next of kin.

12 (f) Inform the patient that he or she has an opportunity to rescind
13 the request at any time and in any manner, and offer the patient
14 an opportunity to rescind at the end of the 15-day waiting period
15 described in Section 7196.5.

16 (g) Verify, immediately prior to writing the prescription for
17 medication under this chapter, that the patient is making an
18 informed decision.

19 (h) Fulfill the medical record documentation requirements of
20 Section 7196.8.

21 (i) Ensure that all appropriate steps are carried out in accordance
22 with this chapter prior to writing a prescription for medication.

23 7196.1. Before a patient is qualified under this chapter, a
24 consulting physician shall examine the patient and his or her
25 relevant medical records and shall, in writing, confirm, the
26 attending physician's diagnosis and that the patient is suffering
27 from a terminal disease and verify that the patient is capable, is
28 acting voluntarily, and has made an informed decision.

29 7196.2. If, in the opinion of the attending physician or the
30 consulting physician, a patient may be suffering from a psychiatric
31 or psychological disorder that impairs judgment or from depression
32 or medication that impairs judgment, or the patient is not a hospice
33 patient, the attending physician or consulting physician shall
34 require the patient to undergo counseling as specified in subdivision
35 (e) of Section 7195.1. In this case, no medication shall be
36 prescribed unless the patient first undergoes the requisite
37 consultation or counseling and until the person performing the
38 counseling determines that the patient is not suffering from a
39 psychiatric or psychological disorder that impairs judgment, or
40 from impaired judgment caused by depression or medication.

1 7196.3. No person shall receive a prescription for medication
2 unless he or she has made an informed decision as defined in
3 subdivision (h) of Section 7195. Immediately prior to writing a
4 prescription for medication in accordance with this chapter, the
5 attending physician shall verify that the patient is making an
6 informed decision.

7 7196.4. The attending physician shall ask the patient to notify
8 the patient's next of kin of his or her request for medication
9 pursuant to this chapter. A patient who declines or is unable to
10 notify next of kin shall not have his or her request denied for that
11 reason.

12 7196.5. In order to receive a prescription for medication, a
13 qualified patient shall have made an oral request and a written
14 request, and reiterate the oral request to his or her attending
15 physician no less than 15 days after making the initial oral request.
16 At the time the qualified patient makes his or her second oral
17 request, the attending physician shall offer the patient an
18 opportunity to rescind the request.

19 7196.6. A patient may rescind his or her request at any time
20 and in any manner without regard to his or her mental state. No
21 prescription for medication under this chapter may be written
22 without the attending physician offering the qualified patient an
23 opportunity to rescind the request.

24 7196.7. No less than 15 days shall elapse between the patient's
25 initial oral request and the writing of a prescription under this
26 chapter. No less than 48 hours shall elapse between the patient's
27 written request and the writing of a prescription under this chapter.

28 7196.8. The following shall be documented or filed in the
29 patient's medical record:

30 (a) All oral requests by a patient for medication.

31 (b) All written requests by a patient for medication.

32 (c) The attending physician's diagnosis and prognosis, and his
33 or her determination that the patient is capable, acting voluntarily,
34 and has made an informed decision.

35 (d) The consulting physician's diagnosis and prognosis, and his
36 or her verification that the patient is capable, acting voluntarily,
37 and has made an informed decision.

38 (e) A report of the outcome and determinations made during
39 counseling, if performed.

1 (f) The attending physician's offer to the patient to rescind his
2 or her request at the time of the patient's second oral request
3 pursuant to Section 7196.5.

4 (g) The attending physician's discussion with the patient of
5 feasible alternatives, including, but not limited to, hospice care,
6 comfort care, and pain control.

7 (h) A note by the attending physician indicating that all the
8 requirements of this chapter have been met and indicating the steps
9 taken to carry out the request, including a notation of the
10 medication prescribed.

11 7196.9. Only requests made by California residents under this
12 chapter shall be granted.

13 7197.1. (a) The department shall adopt regulations regarding
14 requirements for the collection of information to determine the
15 use of and compliance with this chapter. The information collected
16 shall not be a public record and shall not be made available for
17 inspection by the public.

18 (b) The department shall generate and make available to the
19 public an annual statistical report of information collected,
20 disaggregated by age, gender, race, ethnicity, and language spoken
21 at home, pursuant to subdivision (a).

22 (c) The department shall annually review a sample of records
23 maintained pursuant to this chapter.

24 7197.3. (a) No provision in a contract, will, or other agreement,
25 whether written or oral, to the extent the provision would affect
26 whether a person may make or rescind a request for medication,
27 shall be valid.

28 (b) No obligation owing under any contract in existence on or
29 before January 1, 2008, shall be conditioned or affected by the
30 making or rescinding of a request by a person for medication.

31 (c) No health care service plan contract, as defined in
32 subdivision (r) of Section 1345, shall be conditioned upon or
33 affected by the making or rescinding of a request by a person for
34 medication. Any such contract provision shall be invalid.

35 (d) No provision of a policy of disability insurance or a health
36 benefit plan contract that provides coverage for hospital, medical,
37 or surgical expenses pursuant to Part 2 (commencing with Section
38 10110) of Division 2 of the Insurance Code shall be conditioned
39 upon or affected by the making or rescinding of a request by a

1 person to end his or her life in a humane and dignified manner.

2 Any such policy provision shall be invalid.

3 7197.5. The sale, procurement, or issuance of any life, health,
4 or accident insurance or annuity policy or the rate charged for any
5 policy shall not be conditioned upon or affected by the making or
6 rescinding of a request by a person for medication. A qualified
7 patient's act of ingesting medication to end his or her life in a
8 humane and dignified manner in accordance with this chapter shall
9 not have an effect upon a life, health, or accident insurance or
10 annuity policy.

11 7197.7. Nothing in this chapter shall be construed to authorize
12 a physician or any other person to end a patient's life by lethal
13 injection, mercy killing, or active euthanasia. The patient must
14 self-administer the medication provided under this chapter. Actions
15 taken in accordance with this chapter shall not, for any purpose,
16 constitute suicide, assisted suicide, mercy killing, or homicide,
17 under the law. Every state agency, department, or office that
18 prepares or issues a document or report that describes or refers to
19 the medical practice described in this chapter shall use the phrase
20 "aid in dying" to describe or reference the medical practice in the
21 document or report.

22 7197.8. Nothing in this chapter shall affect the authority of a
23 coroner or medical examiner to investigate a death.

24 Article 3. Immunities and Liabilities

25
26 7198. Except as provided in Section 7198.5:

27 (a) Notwithstanding any other provision of law, no person shall
28 be subject to civil or criminal liability or professional disciplinary
29 action for participating in good faith compliance with this chapter.
30 This includes being present when a qualified patient takes the
31 prescribed medication to end his or her life in a humane and
32 dignified manner.

33 (b) No professional organization or association, or health care
34 provider, may subject a person to censure, discipline, suspension,
35 loss of license, loss of privileges, loss of membership, or other
36 penalty for participating or refusing to participate in good faith
37 compliance with this chapter.

38 (c) No request by a patient for or provision by an attending
39 physician of medication in good faith compliance with this chapter
40

1 shall constitute neglect for any purpose of law or provide the sole
2 basis for the appointment of a guardian or conservator.

3 (d) No health care provider shall be under any duty, whether
4 by contract, by statute, or by any other legal requirement to
5 participate in the provision to a qualified patient of medication. If
6 a health care provider is unable or unwilling to carry out a patient's
7 request under this chapter, and the patient transfers his or her care
8 to a new health care provider, the prior health care provider shall
9 transfer, upon request, a copy of the patient's relevant medical
10 records to the new health care provider.

11 (e) Notwithstanding any other provision of law, a general acute
12 care hospital, as defined in subdivision (a) of Section 1250, may
13 prohibit a licensed physician from carrying out a patient's request
14 under this chapter on the premises of the hospital if the hospital
15 has notified the licensed physician of its policy regarding this
16 chapter.

17 7198.5. (a) Nothing in this chapter limits civil or criminal
18 liability resulting from other negligent conduct or intentional
19 misconduct by any person.

20 (b) The penalties in this chapter do not preclude criminal
21 penalties applicable under other law for conduct that is inconsistent
22 with this chapter.

23
24 Article 4. Severability

25
26 7198.9. Any section of this chapter that is held invalid as to
27 any person or circumstance shall not affect the application of any
28 other section of this chapter that can be given full effect without
29 the invalid section or portion thereof.

30
31 Article 5. Form of the Request

32
33 7199. A request for a medication as authorized by this chapter
34 shall be in substantially the following form:

35
36
37 REQUEST FOR MEDICATION
38 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER
39 I, _____, am an adult of sound mind.

1 I am suffering from _____, which my attending physician has determined
2 is a terminal disease which will, within reasonable medical judgment, likely
3 lead to my death within six months, and which has been medically confirmed
4 by a consulting physician.

5 I have been fully informed of my diagnosis, prognosis, the nature of
6 the medication to be prescribed, and the potential associated risks, the expected
7 result, and the feasible alternatives, including comfort care, hospice care, and
8 pain control.

9 I request that my attending physician prescribe medication that will
10 allow me to hasten the end of my life in a humane and dignified manner.

11
12 INITIAL ONE:

13 _____ I have informed my family of my decision and taken their opinions
14 into consideration.

15 _____ I have decided not to inform my family of my decision.

16 _____ I have no family to inform of my decision.

17 I understand that I have the right to rescind this request at any time.

18 I understand the full import of this request, and I expect to die when I take
19 the medication to be prescribed.

20 I make this request voluntarily and without reservation, and I accept full
21 moral responsibility for my actions.

22 Signed: _____

23 Dated: _____

24
25 DECLARATION OF WITNESSES

26 We declare that the person signing this request:

27 (a) Is personally known to us or has provided proof of identity;

28 (b) Signed this request in our presence;

29 (c) Appears to be of sound mind and not under duress, fraud, or undue
30 influence;

31 (d) Is not a patient for whom either of us is the attending physician.

32 _____ Witness 1/Date

33 _____ Witness 2/Date

34
35 NOTE: Neither witness shall be a relative (by blood, marriage, or adoption)
36 of the person signing this request. Neither witness shall be entitled to any

1 portion of the person's estate upon death. Neither witness shall own, operate,
2 or be employed at a health care facility where the person is a patient or resident.
3

O

ASSEMBLY BILL

No. 436

Introduced by Assembly Member Salas

February 16, 2007

An act to add Section 130316.5 to the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 436, as introduced, Salas. Health Insurance Portability and Accountability Act of 2001.

Existing federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes certain requirements relating to the provision of health insurance, and the protection of privacy of individually identifiable health information. Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, requires the Office of HIPAA Implementation, established by the Governor's office within the California Health and Human Services Agency, to perform specified activities required for compliance with this federal act. These provisions will be repealed on January 1, 2008.

This bill would, notwithstanding any other provision of law or regulation, prohibit any entity subject to HIPAA from disclosing a patient's medical information without first receiving that patient's written authorization.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 130316.5 is added to the Health and
- 2 Safety Code, to read:
- 3 130316.5. Notwithstanding any other provision of law or
- 4 regulation, no entity subject to HIPAA shall disclose a patient's
- 5 medical information without first obtaining that patient's written
- 6 authorization.

ASSEMBLY BILL

No. 519

Introduced by Assembly Member Mendoza

February 21, 2007

An act to add Section 52052.3 to the Education Code, relating to pupil achievement.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as introduced, Mendoza. Pupil achievement: Academic Performance Index.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop the Academic Performance Index (API), which consists of a variety of indicators currently reported to the State Department of Education, to track the achievement of schools and their pupils.

This bill would require the department to prepare and submit to the Legislature a plan to include dropout data in the API, develop a definition of the term "dropout" for that purpose, and include statistics and data in the API regarding the availability at public high schools of prerequisite courses required for admission to the California State University and the University of California.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 52052.3 is added to the Education Code,
- 2 to read:
- 3 52052.3. The department shall do all of the following:

- 1 (a) Prepare and submit to the Legislature a plan to include
- 2 dropout data in the Academic Performance Index (API).
- 3 (b) Develop a definition of the term “dropout” for purposes of
- 4 subdivision (a).
- 5 (c) Include statistics and data in the API regarding the
- 6 availability at public high schools of prerequisite courses required
- 7 for admission to the California State University and the University
- 8 of California.

ASSEMBLY BILL

No. 555

Introduced by Assembly Member Nakanishi

February 21, 2007

An act relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 555, as introduced, Nakanishi. Healing arts: medical records.

Existing law, the Medical Practice Act, creates the Medical Board of California and makes it responsible for issuing a physician's and surgeon's certificate to qualified applicants and for regulating the practice of physicians and surgeons. Under existing law, a general acute care hospital is required to maintain a medical records system that organizes the records for each patient under a unique identifier but is not required to maintain the records in an electronic format.

This bill would express the Legislature's intent to require the board to work with interested parties to develop an electronic system that would allow any physician and surgeon in this state to access the medical records of the patient he or she requires in order to treat that patient.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to require the
- 2 Medical Board of California to work with all interested parties to
- 3 develop an electronic system that would allow any physician and

- 1 surgeon in the state to access the medical records of the patient
- 2 that the physician and surgeon requires in order to treat that patient.

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Ruskin

February 22, 2007

An act to add Section 1798.855 to the Civil Code, relating to social security numbers.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Ruskin. Social security numbers.

Existing law prohibits a person or entity, with specified exceptions, from publicly posting or displaying an individual's social security number or doing certain other acts that might compromise the security of an individual's social security number, unless otherwise required by federal or state law.

This bill would prohibit a person or entity from using a social security number as an identifier, except as required by federal or state law. The bill would also require that records containing social security numbers be discarded or destroyed in a specified manner, and would require the encryption or locked storage of records containing social security numbers.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1798.855 is added to the Civil Code, to
2 read:
3 1798.855. Except as provided in Section 1798.85, a person or
4 entity shall do all of the following:

- 1 (a) Identify an employee, customer, or customer account by
- 2 number or identifier, rather than by social security number, except
- 3 when required by federal or state law.
- 4 (b) Discard or destroy records containing another person's social
- 5 security number in a manner that protects their confidentiality,
- 6 such as through the use of crosscut shredding.
- 7 (c) Encrypt stored records containing social security numbers
- 8 in electronic format or maintain those records in locked cabinets
- 9 or locked storage.

ASSEMBLY BILL

No. 1302

Introduced by Assembly Member Horton

February 23, 2007

An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1302, as introduced, Horton. Health Insurance Portability and Accountability Act.

Existing law, the Health Insurance Portability and Accountability Implementation Act of 2001, sets forth processes for the implementation of the federal Health Insurance Portability and Accountability Act (HIPAA) in this state. Under existing law, this act will be repealed January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

This bill would express the Legislature's intent to enact legislation relating to HIPPA.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation relating to the federal Health Insurance Portability and
- 3 Accountability Act.

O

Assembly Concurrent Resolution

No. 9

Introduced by Assembly Member Dymally

January 10, 2007

Assembly Concurrent Resolution No. 9—Relative to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

ACR 9, as introduced, Dymally. Legislative Task Force on Substance Abuse.

This measure would establish, until November 30, 2008, the Legislative Task Force on Substance Abuse. The measure would require the task force to report findings and recommendations on specified issues to the Governor and to the Legislature no later than September 30, 2008.

Fiscal committee: yes.

- 1 WHEREAS, Substance abuse is the excessive use of a substance,
2 especially alcohol or a drug; and
3 WHEREAS, Alcohol and drug use and abuse are growing
4 problems in the United States and California; and
5 WHEREAS, According to the National Institutes of Health's
6 National Institute on Drug Abuse (NIDA), drug abuse is a major
7 public health problem that impacts society on multiple levels, and
8 substance abuse costs our nation more than \$484 billion per year;
9 and
10 WHEREAS, According to the NIDA, many of America's top
11 medical problems can be directly linked to drug abuse and many
12 of America's top social problems also relate to or impact drug
13 abuse; and

1 WHEREAS, According to the State Department of Alcohol and
2 Drug Programs, alcohol and other drug abuse are major factors in
3 chronic disease, infectious disease, hospital emergency room visits,
4 newborn health problems, and violence and auto accidents; and

5 WHEREAS, In California, the estimated 2005 cost to society
6 of alcohol and other drug abuse was over \$44 billion. This estimate
7 took into consideration loss of productivity, health care costs,
8 prevention and treatment costs, criminal justice costs and losses
9 due to crime; now, therefore, be it

10 *Resolved by the Assembly of the State of California, the Senate*
11 *thereof concurring*, That the Legislative Task Force on Substance
12 Abuse is hereby established to study and investigate issues,
13 including identifying the public health implications associated
14 with substance abuse. Further, the task force shall determine both
15 private and public sector roles in providing screening, and treatment
16 benefits; and it be further

17 *Resolved*, That the task force shall identify gaps in programs,
18 services, and funding related to substance abuse and provide
19 recommendations to close the identified gaps. Specifically, the
20 task force shall identify gaps in programs and services related to
21 the education and treatment of children, adolescents, transitional
22 youth, and adults with substance abuse problems; and be it further

23 *Resolved*, That the task force shall provide recommendations
24 for the planning of a comprehensive and integrated continuum of
25 programs, services, and funding that will be required to address
26 current substance abuse epidemic; and be it further

27 *Resolved*, That the task force shall identify the public health
28 implications of substance abuse and make recommendations to
29 address these public health implications; and be it further

30 *Resolved*, That the task force shall consist of 11 members, six
31 of whom shall be members appointed by the Speaker of the
32 Assembly and five of whom shall be appointed by the Senate
33 Committee on Rules; and be it further

34 *Resolved*, That the task force shall include representatives from
35 the State Department of Alcohol and Drug Programs, the State
36 Department of Mental Health, the State Department of Public
37 Health, the State Department of Health Care Services, the
38 California State Association of Counties, two representatives of
39 the County Alcohol and Drug Program Administrators, one from
40 an urban area and another from a rural area, two health care

1 providers, a law enforcement official, and a consumer; and be it
2 further

3 *Resolved*, That the task force shall be under the direction of a
4 chair, selected from among its members and appointed by the
5 Speaker of the Assembly, and a vice chair, selected from among
6 its members and appointed by the Senate Committee on Rules;
7 and be it further

8 *Resolved*, That the task force shall submit one or more reports
9 to the Legislature and to the Governor, including its findings and
10 recommendations, by no later than, September 30, 2008; and be
11 it further

12 *Resolved*, That the task force is authorized to act until November
13 30, 2008; and be it further

14 *Resolved*, That the task force shall seek funding, technical
15 assistance, and other resources from foundations and other
16 organizations as long as that support would not pose any conflict
17 of interest and would be deemed as consistent with the goals and
18 objectives of the task force; and be it further

19 *Resolved*, That the work of the task force may be supported by
20 legislative staff and services as determined by the respective rules
21 committees; and be it further

22 *Resolved*, That the task force and its members shall have and
23 exercise all the rights, duties, and powers conferred upon
24 commissions and their members by the Joint Rules of the Senate
25 and the Assembly, as they are adopted and amended from time to
26 time, and the pertinent provisions of the Joint Rules of the Senate
27 and the Assembly shall be applicable to this task force and its
28 members; and be it further

29 *Resolved*, That the Chief Clerk of the Assembly transmit copies
30 of this resolution to the author for appropriate distribution.

Introduced by Senator Aanestad

February 14, 2007

An act to amend Section 1250 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as introduced, Aanestad. Health facilities: licensure.

Existing law provides for the licensure and regulation of health facilities.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1250 of the Health and Safety Code is
2 amended to read:
3 1250. As used in this chapter, "health facility" means any
4 facility, place, or building that is organized, maintained, and
5 operated for the diagnosis, care, prevention, and treatment of
6 human illness, physical or mental, including convalescence and
7 rehabilitation and including care during and after pregnancy, or
8 for any one or more of these purposes, for one or more persons,
9 to which the persons are admitted for a 24-hour stay or longer, and
10 includes the following types:
11 (a) "General acute care hospital" means a health facility having
12 a duly constituted governing body with overall administrative and
13 professional responsibility and an organized medical staff that

1 provides 24-hour inpatient care, including the following basic
2 services: medical, nursing, surgical, anesthesia, laboratory,
3 radiology, pharmacy, and dietary services. A general acute care
4 hospital may include more than one physical plant maintained and
5 operated on separate premises as provided in Section 1250.8. A
6 general acute care hospital that exclusively provides acute medical
7 rehabilitation center services, including at least physical therapy,
8 occupational therapy, and speech therapy, may provide for the
9 required surgical and anesthesia services through a contract with
10 another acute care hospital. In addition, a general acute care
11 hospital that, on July 1, 1983, provided required surgical and
12 anesthesia services through a contract or agreement with another
13 acute care hospital may continue to provide these surgical and
14 anesthesia services through a contract or agreement with an acute
15 care hospital. The general acute care hospital operated by the State
16 Department of Developmental Services at Agnews Developmental
17 Center may, until June 30, 2007, provide surgery and anesthesia
18 services through a contract or agreement with another acute care
19 hospital. Notwithstanding the requirements of this subdivision, a
20 general acute care hospital operated by the Department of
21 Corrections and Rehabilitation or the Department of Veterans
22 Affairs may provide surgery and anesthesia services during normal
23 weekday working hours, and not provide these services during
24 other hours of the weekday or on weekends or holidays, if the
25 general acute care hospital otherwise meets the requirements of
26 this section.

27 A “general acute care hospital” includes a “rural general acute
28 care hospital.” However, a “rural general acute care hospital” shall
29 not be required by the department to provide surgery and anesthesia
30 services. A “rural general acute care hospital” shall meet either of
31 the following conditions:

32 (1) The hospital meets criteria for designation within peer group
33 six or eight, as defined in the report entitled Hospital Peer Grouping
34 for Efficiency Comparison, dated December 20, 1982.

35 (2) The hospital meets the criteria for designation within peer
36 group five or seven, as defined in the report entitled Hospital Peer
37 Grouping for Efficiency Comparison, dated December 20, 1982,
38 and has no more than 76 acute care beds and is located in a census
39 dwelling place of 15,000 or less population according to the 1980
40 federal census.

1 (b) "Acute psychiatric hospital" means a health facility having
2 a duly constituted governing body with overall administrative and
3 professional responsibility and an organized medical staff that
4 provides 24-hour inpatient care for mentally disordered,
5 incompetent, or other patients referred to in Division 5
6 (commencing with Section 5000) or Division 6 (commencing with
7 Section 6000) of the Welfare and Institutions Code, including the
8 following basic services: medical, nursing, rehabilitative,
9 pharmacy, and dietary services.

10 (c) "Skilled nursing facility" means a health facility that provides
11 skilled nursing care and supportive care to patients whose primary
12 need is for availability of skilled nursing care on an extended basis.

13 (d) "Intermediate care facility" means a health facility that
14 provides inpatient care to ambulatory or nonambulatory patients
15 who have recurring need for skilled nursing supervision and need
16 supportive care, but who do not require availability of continuous
17 skilled nursing care.

18 (e) "Intermediate care facility/developmentally disabled
19 habilitative" means a facility with a capacity of 4 to 15 beds that
20 provides 24-hour personal care, habilitation, developmental, and
21 supportive health services to 15 or fewer developmentally disabled
22 persons who have intermittent recurring needs for nursing services,
23 but have been certified by a physician and surgeon as not requiring
24 availability of continuous skilled nursing care.

25 (f) "Special hospital" means a health facility having a duly
26 constituted governing body with overall administrative and
27 professional responsibility and an organized medical or dental staff
28 that provides inpatient or outpatient care in dentistry or maternity.

29 (g) "Intermediate care facility/developmentally disabled" means
30 a facility that provides 24-hour personal care, habilitation,
31 developmental, and supportive health services to developmentally
32 disabled clients whose primary need is for developmental services
33 and who have a recurring but intermittent need for skilled nursing
34 services.

35 (h) "Intermediate care facility/developmentally
36 disabled—nursing" means a facility with a capacity of 4 to 15 beds
37 that provides 24-hour personal care, developmental services, and
38 nursing supervision for developmentally disabled persons who
39 have intermittent recurring needs for skilled nursing care but have
40 been certified by a physician and surgeon as not requiring

1 continuous skilled nursing care. The facility shall serve medically
2 fragile persons who have developmental disabilities or demonstrate
3 significant developmental delay that may lead to a developmental
4 disability if not treated.

5 (i) (1) "Congregate living health facility" means a residential
6 home with a capacity, except as provided in paragraph (4), of no
7 more than 12 beds, that provides inpatient care, including the
8 following basic services: medical supervision, 24-hour skilled
9 nursing and supportive care, pharmacy, dietary, social, recreational,
10 and at least one type of service specified in paragraph (2). The
11 primary need of congregate living health facility residents shall
12 be for availability of skilled nursing care on a recurring,
13 intermittent, extended, or continuous basis. This care is generally
14 less intense than that provided in general acute care hospitals but
15 more intense than that provided in skilled nursing facilities.

16 (2) Congregate living health facilities shall provide one of the
17 following services:

18 (A) Services for persons who are mentally alert, physically
19 disabled persons, who may be ventilator dependent.

20 (B) Services for persons who have a diagnosis of terminal
21 illness, a diagnosis of a life-threatening illness, or both. Terminal
22 illness means the individual has a life expectancy of six months
23 or less as stated in writing by his or her attending physician and
24 surgeon. A "life-threatening illness" means the individual has an
25 illness that can lead to a possibility of a termination of life within
26 five years or less as stated in writing by his or her attending
27 physician and surgeon.

28 (C) Services for persons who are catastrophically and severely
29 disabled. A catastrophically and severely disabled person means
30 a person whose origin of disability was acquired through trauma
31 or nondegenerative neurologic illness, for whom it has been
32 determined that active rehabilitation would be beneficial and to
33 whom these services are being provided. Services offered by a
34 congregate living health facility to a catastrophically disabled
35 person shall include, but not be limited to, speech, physical, and
36 occupational therapy.

37 (3) A congregate living health facility license shall specify which
38 of the types of persons described in paragraph (2) to whom a
39 facility is licensed to provide *the* services.

1 (4) (A) A facility operated by a city and county for the purposes
2 of delivering services under this section may have a capacity of
3 59 beds.

4 (B) A congregate living health facility not operated by a city
5 and county servicing persons who are terminally ill, persons who
6 have been diagnosed with a life-threatening illness, or both, that
7 is located in a county with a population of 500,000 or more persons
8 may have not more than 25 beds for the purpose of serving
9 terminally ill persons.

10 (C) A congregate living health facility not operated by a city
11 and county serving persons who are catastrophically and severely
12 disabled, as defined in subparagraph (C) of paragraph (2) that is
13 located in a county of 500,000 or more persons may have not more
14 than 12 beds for the purpose of serving catastrophically and
15 severely disabled persons.

16 (5) A congregate living health facility shall have a
17 noninstitutional, homelike environment.

18 (j) (1) "Correctional treatment center" means a health facility
19 operated by the Department of Corrections, the Department of the
20 Youth Authority, or a county, city, or city and county law
21 enforcement agency that, as determined by the state department,
22 provides inpatient health services to that portion of the inmate
23 population who do not require a general acute care level of basic
24 services. This definition shall not apply to those areas of a law
25 enforcement facility that houses inmates or wards that may be
26 receiving outpatient services and are housed separately for reasons
27 of improved access to health care, security, and protection. The
28 health services provided by a correctional treatment center shall
29 include, but are not limited to, all of the following basic services:
30 physician and surgeon, psychiatrist, psychologist, nursing,
31 pharmacy, and dietary. A correctional treatment center may provide
32 the following services: laboratory, radiology, perinatal, and any
33 other services approved by the state department.

34 (2) Outpatient surgical care with anesthesia may be provided,
35 if the correctional treatment center meets the same requirements
36 as a surgical clinic licensed pursuant to Section 1204, with the
37 exception of the requirement that patients remain less than 24
38 hours.

39 (3) Correctional treatment centers shall maintain written service
40 agreements with general acute care hospitals to provide for those

1 inmate physical health needs that cannot be met by the correctional
2 treatment center.

3 (4) Physician and surgeon services shall be readily available in
4 a correctional treatment center on a 24-hour basis.

5 (5) It is not the intent of the Legislature to have a correctional
6 treatment center supplant the general acute care hospitals at the
7 California Medical Facility, the California Men's Colony, and the
8 California Institution for Men. This subdivision shall not be
9 construed to prohibit the Department of Corrections from obtaining
10 a correctional treatment center license at these sites.

11 (k) "Nursing facility" means a health facility licensed pursuant
12 to this chapter that is certified to participate as a provider of care
13 either as a skilled nursing facility in the federal Medicare Program
14 under Title XVIII of the federal Social Security Act or as a nursing
15 facility in the federal Medicaid Program under Title XIX of the
16 federal Social Security Act, or as both.

17 (l) Regulations defining a correctional treatment center described
18 in subdivision (j) that is operated by a county, city, or city and
19 county, the Department of Corrections, or the Department of the
20 Youth Authority, shall not become effective prior to, or if effective,
21 shall be inoperative until January 1, 1996, and until that time these
22 correctional facilities are exempt from any licensing requirements.

Introduced by Senator Calderon

February 23, 2007

An act to add Section 650.03 to the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

SB 907, as introduced, Calderon. Physicians and surgeons: referrals.

Existing law, with certain exceptions, prohibits the offer, delivery, receipt, or acceptance by any healing arts licensee regulated by the Business and Professions Code or under the Chiropractic Initiative Act, of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, as compensation or an inducement for referring patients, clients, or customers to any person.

This bill would provide that it is not unlawful for a physician and surgeon to provide consideration for a referral for an elective cosmetic procedure if specified conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 650.03 is added to the Business and
2 Professions Code, to read:
3 650.03. Notwithstanding Section 650, or any other provision
4 of law, it shall not be unlawful for a physician and surgeon licensed
5 under this division to provide consideration for a referral if all of
6 the following conditions are satisfied:
7 (a) The referral is made by an employee of the physician and
8 surgeon.

- 1 (b) The referral is for an elective cosmetic procedure performed
2 under local anesthetic.
- 3 (c) The individual referred made the initial contact or inquiry.
- 4 (d) The physician and surgeon charges no more than his or her
5 usual and customary fee for the elective cosmetic procedure
6 performed.
- 7 (e) The consideration does not exceed two hundred fifty dollars
8 (\$250).
- 9 (f) The physician and surgeon discloses the referral arrangement
10 to the individual referred.

Attachment D-7

*Meeting Summary of the
April 3, 2007 Meeting*

MEETING SUMMARY
LEGISLATION AND REGULATION COMMITTEE
DATE: April 3, 2007
LOCATION: Department of Consumer Affairs
1625 N Market Blvd
Sacramento, CA 95834

BOARD MEMBERS PRESENT:
Ken Schell, PharmD, Acting Chair
Tim Dazé
Henry Hough

BOARD STAFF PRESENT:

Virginia Herold, Interim Executive Officer
Robert Ratcliff, Supervising Inspector
Anne Sodergren, Staff Manager

Chairperson Dr. Schell called the meeting to order at 9:30 a.m.

Dr. Schell stated that the agenda items were going to be taken out of order and that the first order of business would be a presentation and discussion about Sansum Clinic (Sansum).

Representatives from Sansum provided the committee with a background on the clinic ownership and structure, noting that they currently hold three clinic licenses, one pharmacy license and one wholesaler license.

The wholesale license is used to receive, warehouse and distribute medical supplies for use by the various clinic sites and indicated that there is no dispensing at the clinic sites, only administration of the drugs and supplies.

All of the licensed entities share a common ownership.

Representatives from Sansum were requesting board approval to eliminate the wholesale license and replace it with a clinic license. This would eliminate the surety bond requirement currently in effect for wholesalers, as well as relieve some of the pedigree requirements.

Executive Officer Herold stated that the pedigree requirements would still be required and it would be necessary to track the pedigree. The pedigree would need to demonstrate the initial purchase of the drug, however it would not need to trace the movement between the pharmacy and clinic sites.

Dr. John Cronin stated that the proposed clinic is currently JCAHO accredited and that part of that accreditation also requires the tracking of that information.

Chairperson Schell clarified that Sansum's request was to allow the redistribution of the product with a wholesaler license and therefore relieve Sansum from the surety bond and pedigree requirements to a wholesaler license,

Committee Member Hough requested clarification on the necessity to eliminate two of the three existing clinic licenses.

Dr. Cronin stated that Business and Professions Code section 4180 allowed for the transfer of drugs without those permits.

Committee Member Dazé asked if each clinic was a separate corporation.

Representatives from Sansum indicated that the licenses all shared a common ownership.

Supervising Inspector Ratcliff asked if the proposed eliminated clinic sites were still going to have dangerous drugs and stated that if those drugs were going to be in a common stock, the clinic licenses could not be eliminated. Supervising Inspector Ratcliff also stated that a clinic cannot redistribute drugs.

Dr. Cronin asked if a clinic can redistribute if it is done internally.

Supervising Inspector Ratcliff reiterated that the redistribution could not be done by a clinic, but could perhaps be completed by a licensed pharmacy.

Executive Officer Herold indicated that the board would confer with counsel about the legality of the pharmacy redistributing drug product.

Dr. Cronin restated that the goal of this proposal is to eliminate the wholesaler license and that Sansum is seeking guidance from the board on how to meet their goal.

Executive Officer Herold indicated that the board has sufficient information to move forward to evaluate the construct provided and will work within the parameters of the law to make a determination. Ms. Herold committed to assist Sansum in identifying possible solutions.

Approved Regulations

Dr. Schell stated that two regulations were recently approved by the Office of Administrative Law.

Repeal of 16 CCR 1717.2 - Notice of Electronic Prescription Files

The repeal of Section 1717.2 of the California Code of Regulations removes a barrier that prevents pharmacists in some circumstances from having full knowledge of all prescription drugs a patient is taking. The repeal of this section will result in better patient care without compromising patient medical record privacy. This regulation change went into effect March 26, 2007.

Addition of 16 CCR 1784 – Self-Assessment of a Wholesaler

The adoption of this section establishes a self-assessment form for wholesalers and the requirement of the designated representative-in-charge to complete this form to ensure compliance with pharmacy law. This form will also aid wholesalers in complying with

legal requirements of wholesaler operations and therefore increase public safety as a result of this compliance. This regulation will go into effect the end of April 2007.

Board Approved Regulations – Pending Administrative Review

Dr. Schell advised the committee of two regulations that are currently noticed. Dr. Schell provided a brief overview of each of the two rulemakings.

Amendment to 16 CCR 1706.2 - Abandonment of Applications

In 1997, the board established the provisions of 16 CCR1706.2 to define when an application for a pharmacy, manufacturer, supplier, clinic, medical device retailer, or warehouse of a medical device retailer, had been abandoned. In 2005, the board updated this regulation to add non-resident pharmacy, sterile injectable compounding pharmacy to the regulation and to delete the terms "manufacturer," "supplier," "medical device retailer," and "warehouse of a medical device retailer." This proposed regulation change would add veterinary food-animal drug retailer, hypodermic needles and syringes, pharmacist interns and designated representatives to the regulation.

This rulemaking was submitted to the Department on February 16, 2007. The fiscal impact statement was referred to State and Consumer Services Agency on March 27, 2007.

Amendment to 16 CCR 1775.4 – Reschedule of an Office Conference to Contest a Citation

The Board of Pharmacy proposes to amend Section 1775.4 of Division 17 of Title 16 of the California Code of Regulations. The purpose for amending the regulation is to limit the number of times a person or entity can reschedule an informal office conference. Currently there is no provision to allow for a person or entity to reschedule the informal office conference once scheduled. This proposal would afford a person or entity the right to request that the informal office conference be rescheduled one time.

This rulemaking was submitted to the Department on February 16, 2007. The fiscal impact statement was referred to State and Consumer Services Agency on March 27, 2007.

There were no committee or public comments on these two regulation proposals.

Board Approved Regulations Currently Noticed

Dr. Schell provided a brief description of this proposal.

CCR 1707.2 currently requires every pharmacy to prominently post a "Notice to Consumers" poster as authorized by Business and Professions Code section 4122. Assembly Bill 2583 (Chapter 487, Statutes of 2006) amended sections 733 and 4122 of the Business and Professions Code to require the board to amend the "Notice to Consumer" to include a statement that describes a patient's right to obtain medication from a pharmacy even if a pharmacist has ethical, moral or religious grounds against dispensing a particular drug, in which case protocols for getting the medication is required.

Dr. Schell indicated that this proposal will be considered at the April Board Meeting for possible adoption or modification.

Fred Meyer, President PPSI, indicated that he has requested copies of the revised language.

Board staff indicated that they would provide Mr. Meyer with a copy of the proposed language.

Dr. Cronin stated that he submitted comments and was requesting the board's reaction to his comments.

As this was not a regulation hearing, committee members did not respond.

Dr. Steven Gray, representing Kaiser Permanente stated that Kaiser is also concerned about the current language and agrees with the comments submitted by Dr. Cronin.

Kathy Lynch, representing the California Pharmacists Association (CPhA) stated that comments from the CPhA are forthcoming and that the CPhA generally also agrees with the comments submitted by Dr. Cronin.

Board Approved Regulations Awaiting Notice

Dr. Schell briefly discussed the Section 100 Changes (rulemakings without regulatory effect.)

1. Section 100 Changes

- Proposed Amendment to 16 CCR 1709.1 – Replace the term “Exemptee-in-Charge” with “Designated Representative-in-Charge”
In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee-in-charge” with “designated representative-in-charge” in pharmacy law, effective January 1, 2006. This section requires an amendment to ensure the consistency with the Business and Professions Code.
- Proposed Amendment to 16 CCR 1780 – Update the USP Standards Reference Material
Section 1780 sets minimum standards for drug Wholesalers. Section 1780(b) references the 1990 edition of the United States Pharmacopeia Standards (USP Standards) for temperature and humidity standards. The USP Standards is updated and published annually. Consequently, this section requires an amendment to amend Section 1780(b) to reflect the 2005 version of the publication and to hold wholesalers accountable to the latest standards.
- Proposed Amendment to 16 CCR 1780.1 and 1781 – Replace the term “Exemptee” with “Designated Representative”
In 2004 Senate Bill 1307 (Chapter 857, statutes of 2004) replaced the term “exemptee” with “designated representative” in pharmacy law, effective January 1, 2006.

- Proposed Repeal of 16 CCR 1786 – Return of Exemption Certificates
This section is outdated and needs to be repealed. The provision requires a supplier to immediately return a certificate of exemption to the board if an exemptee leaves the employment of a wholesaler. This regulation is based on prior pharmacy law which linked an exemptee license (designated representative) to a specific licensed wholesaler location.
- Proposed Amendment to CCR 1715 – Self Assessment Forms
This self-assessment form is incorporated by reference. A Section 100 regulation change is necessary to update the self-assessment form to reflect changes in pharmacy law since the forms last revision date.
- Proposed Amendment to CCR 1793.8. – Pharmacy Technicians in Hospitals
This section currently references Business and Professions Code section 4052, however because of recodification of this section included in Assembly Bill 2408 (Chapter 777, Statutes of 2006) this reference requires correction.

The committee had no comments on the Section 100 changes.

Dr. Gray questioned if the board considered all of the changes made in the 2005 version of the USP and stated that there could be some unintended consequences to incorporating that version of the USP into regulation. Dr. Gray suggested that board staff review all those changes to ensure the board agrees with the standards established in that version.

Committee members were advised on the status of two additional regulations that were previously approved by the board that are awaiting notice.

Proposed Amendment to 16 CCR 1760 – Disciplinary Guidelines

In addition to the Section 100 changes listed above, the board also approved amendments to 16 CCR 1760 – Disciplinary Guidelines.

This rulemaking will allow the board to use the revised 2007 edition of this publication when deciding on appropriate disciplinary action to take for violations of pharmacy law. Staff has additional recommendations for changes that will be presented to the board at the June 2007 Enforcement Committee Meeting. No action will be taken on this proposal pending the outcome of the July 2007 board meeting.

Proposed Addition to CCR 1785 – Self Assessment of a Veterinary Food-Animal Drug Retailer.

The adoption of Section 1785 of the California Code of Regulations would establish a self-assessment form for veterinary food-animal drug retailers and require the designated representative-in-charge to complete this form to ensure compliance with pharmacy law. This form would also aid these licensees in complying with legal requirements of their operations and therefore increase public safety as a result of this compliance.

Board Approved Regulation – Awaiting Conformance with the California Building Commission Standards Rulemaking Process.

Dr. Schell provided a brief overview of this proposed regulation change.

At the April 2006 Board Meeting, the board agreed to request amendments to the California Building Code regarding provisions for compounding of injectable medicine from nonsterile components to contain provisions currently required in California Business and Profession Code. Staff will pursue these changes in the new format this year to secure adoption of these standards into the building code.

Board Approved Regulations – Proposed Language to be Developed

Process and Criteria to Approve Accreditation Agencies for Pharmacies

Dr. Schell provided a brief overview of this proposal. Staff will develop the draft language in concert with staff counsel to be provided at a future committee meeting for consideration.

This regulation would formalize criteria the board uses to approve such agencies and would remove the administrative burden placed on the board for such approvals.

Dr. Gray suggested that board staff consider the guidelines recently established by the American Pharmacists Association.

Proposed Legislation – Board Sponsored

Omnibus Provisions

The committee reviewed omnibus provisions previously approved by the board to be introduced this legislative cycle. These provisions include amendments to the following:

- B & PC 4084 – Adulterated or Counterfeit Drugs or Dangerous Devices
- B & PC 4162 and 4162.5 – Wholesaler Bonding Requirements
- B & PC 4314 and 4315 – Citation and Fine for Repository and Distribution Programs for Dangerous Drugs
- B & PC 4160(f) and 4161(k) – Temporary License Fee for Wholesalers
- B & PC 4208 – Intern Pharmacist License

No comments were made by the committee or public.

Changes to CURES enacted by AB 2986 (Chapter 286, Statutes of 2006)

Executive Officer Herold provided an overview of the implementation issues arising from changes enacted in 2006 to the CURES program expanding reporting requirements to include Schedule IV controlled substances. In addition, the legislation expanded the reporting elements to include a patient's phone number and increased the frequency with which this data must be submitted. Staff is proposing a transition period for implementation of the new reporting requirements for CURES.

Ms. Herold stated that initially the Department of Justice was going to sponsor the proposed legislative changes, however because of the change in administration at that agency, it was unable to do so. The board was going to carry these changes, but lost

the author. As such the only mechanism the board had to pursue these changes would be through an omnibus bill, but that could result in a triple referral of the omnibus bill.

Ms. Herold indicated that the board has not heard from the industry that the changes enacted by AB 2986 are problematic.

Dr. Schell sought clarification about the requirement to obtain a patient's phone number and indicated that not all patients have a phone number. Dr. Schell indicated that there needs to be a workaround.

Ms. Herold stated that the current state requirement mirror those found in federal legislation and stated that the DOJ must be fully compliant with the federal requirements to receive federal grant money. DOJ has offered some solutions to the phone number requirement including the use of all 9's in that field, a fictitious phone number or the pharmacies phone number. The board is not involved in identifying such workarounds.

Maria Serpa, representing the California Society of Health-Systems Pharmacists (CSHP), commented that small pharmacies do not report electronically to CURES and that the weekly reporting requirement is problematic for such pharmacies. Ms. Serpa requested clarification on whether the board had a plan to communicate to pharmacies that do not have on-line capabilities.

Ms. Herold restated that the requirement is to report CURES data weekly and suggested that Ms. Serpa contact the Bureau of Narcotic Enforcement for guidance.

Ms. Serpa also indicated that the current proposed language is a little bit prescriptive in specifying the exact day of the week the weekly CURES information is to be transmitted.

Dr. Gray stated that the intended changes were designed to clarify the changes enacted by AB 2986 and stated that there is a lack of information coming from the DOJ. He stated that Kaiser can live with the existing language as long as the CURES enforcement is reasonable.

Dr. Gray also stated that there are problems with incomplete submissions being kicked back from the vendor (Atlantic and Associates) and stated that the requirement for the weekly transmission to occur on Monday is also problematic for Kaiser.

Ms. Herold stated that some of the transmission issues may be resolved when the new contract with Atlantic and Associates goes into effect.

There were no additional comments from committee members or the public.

Legislation Introduced Impacting the Practice of Pharmacy or the Board's Jurisdiction

Executive Officer Herold advised the committee of the five possible positions the committee can recommend to the board for consideration: Oppose, Oppose with Amendments, Support if Amended, Support, and Neutral.

Dr. Schell provided a brief overview of each of the relevant bills, as well as the author's intent.

AB 110 (Laird) Drug Paraphernalia: Clean Needle and Syringe Exchange Projects

This proposal would allow for the use of General Fund money to purchase needles for NEP programs.

Committee Member Hough stated the effectiveness of the current law.

Executive Officer Herold clarified that this proposal would allow the use of General Fund money to purchase needles for NEP programs.

Committee Member Dazé stated concern that the General Fund money could be used in another fashion and that the proposed funding should be done on at the county level.

Committee Member Hough agreed.

Fred Meyer, PPSI, stated that NEP's are effective and save lives. He stated that the government should step in.

Committee Member Dazé stated that the committee is not recommending that the board take an oppose position.

Committee Recommendation: Watch

AB 249 (Eng) Licensees: Healing Arts: Settlement Agreements

This proposal would prevent all health care practitioners from including a "gag clause" in a civil action.

Committee Recommendation: Support

No comments from the committee or public.

AB 501 (Swanson) Pharmaceutical Devices: Hypodermic Needle and Syringe Disposal

This proposal would require every pharmaceutical company whose product requires the use of prefilled syringe, prefilled pen needle or other prefilled injection device to provide a method for California patients to dispose of the device.

Committee Member Hough requested an explanation of a sharps container.

Dr. Schell indicated that it is a container designed to protect people from inadvertently sticking themselves with a needle.

Fred Meyer, PPSI, stated that the changes should require the manufacturer to pay for the container.

Committee Member Hough stated that with the escalating costs of health care, who would pay for this. If it is required that the manufacturer pay for this container, it will result in the manufacturer raising their price. Mr. Hough also questioned if there is a problem with disposing of used needles in another fashion such as a milk bottle.

A representative from the Gray Panthers stated that this legislation is needed.

Committee member Dazé stated that individuals would be damaged by the improper disposal of a needle and expressed support for the legislation.

Dr. Phillips stated that inadvertent needle sticks is a big problem that results in emergency room visits.

Dr. Schell stated that this proposal provides a mechanism for disposal, but that this may not be the best solution.

A representative from the Gray Panthers suggested that perhaps the sharps container should be provided at cost.

Supervising Inspector Ratcliff stated that he is concerned about the potential impact on pharmacies and cited the scenario of a pharmacy dispensing a starter kit.

Committee Recommendation: Support

AB 543 (Plescia) Ambulatory Surgical Centers: Licensure

This proposal would standardize the licensing requirements for ambulatory surgical centers.

Bryce Docherty representing the California Ambulatory Surgery Association provided a brief overview and history of this proposal and stated that this is similar to the legislation introduced last year that was vetoed by the governor.

Committee Member Dazé asked if the comments addressed in the governor's veto message have been addressed.

Mr. Docherty summarized the reason for the veto last year and stated that these concerns have been addressed in this new legislative proposal.

Dr. Schell indicated that the board anticipates a fiscal impact should this proposal be signed by the governor and asked if the current proposal includes money for the board.

Mr. Docherty responded that it is unclear how many new ambulatory surgery centers would seek licensure from the board and stated that he would need a cost breakdown from the board.

Executive Officer Herold stated that the board would require new staff.

Mr. Docherty stated that he would work with the board to secure the staff needed.

Executive Officer Herold asked if the Department of Health Services (DHS) is in support of this proposal.

Mr. Docherty stated that the DHS does not have a formal position on this bill.

Executive Officer Herold requested clarification on how a clinic becomes Medicare Certified.

Mr. Docherty stated that he understands the need for clarification.

Dr. Gray stated that the board's license would allow for a common stock of medications and would allow for a clinic to obtain a DEA permit and therefore allow for the dispensing of controlled substances.

Committee Recommendation: Support

AB 865 (Davis) State Agencies: Live Customer Service Agents

This proposal would require all state agencies to answer public telephone lines within 10 rings.

Committee Member Dazé is concerned about an unfunded mandate on the profession and stated that he would not support this bill as written.

Committee member Hough stated that this bill could prove cost effective and that a consumer's time is worth something.

Committee Member Dazé stated his support for a similar requirement in Illinois that allows for a "zero out" option, rather than the bill in its current form.

Executive Officer Herold suggested that the board's concerns could be forwarded to the Department of Consumer Affairs (DCA).

Committee Recommendation: Neutral – forward concerns to the DCA

AB 1025 (Bass) Professions and Vocations: Denial of Licensure

This proposal would prohibit the board from denying an application for licensure or pursuing administrative action against a licensee for a conviction that has been set aside or for an arrest where a final disposition has not occurred within one year.

Board staff indicated that this bill could pose a threat to public safety by curbing the board's ability to pursue administrative action.

Committee Member Dazé stated that it is a problem to deny a license if a conviction is not in place as an individual is innocent until proven guilty.

Executive Officer Herold stated that staff will seek clarification from counsel.

Committee Recommendation: None – seek clarification from counsel

AB 1587 (De La Torre) Personal Information: Pharmacy

This proposal would make exemptions to the definition of marketing materials.

Committee Recommendation: None

SB 963 (Ridley-Thomas) Regulatory Boards: Termination

This proposal would remove the Department of Consumer Affairs as the automatic successor in the event a board is "sunsetting."

Committee Recommendation: None

SB 966 (Simitian) Pharmaceutical Drug Disposal

This proposal would require pharmacies to accept then dispose of returned unused medications.

Committee Member Dazé stated that this bill is imposing a government mandate without funding. The solution could be to educate the public on the proper disposal of unused medications.

Board staff indicated that the author's office held a meeting with stakeholders to try to eliminate potential opposition to the bill. In addition board staff advised the committee of some amendments that were forthcoming.

Kathy Lynch, representing the CPhA stated that their organization has not taken a formal oppose position on this bill, but has identified several problems including the possible liability pharmacies would incur, the lack of funding for implementation as well as concerns about the disposal mechanism. She stated that the CPhA is looking for a workable solution.

Dr. Schell requested the CPhA's concerns in writing.

Dr. Cronin suggested that the board should reconsider its fiscal impact.

Mr. Docherty, representing the CSHP stated that CSHP also shares the concerns of CPhA and offered that a voluntary take back program may be a better solution than a mandatory one. Mr. Docherty also stated that CSHP would like a definition of "retailer" and asked what would be the ramifications on a pharmacist that refuses to take back the medications.

Dr. Gray stated that physicians and dentists also dispense medications and was questioning if they would also be required to take back unused medications.

Executive Officer Herold stated that several issues need answers and also expressed support for stakeholders attending a meeting with the author's office.

Committee Recommendation: None

AB 851 (Brownley) Prescription Drugs: Informational Insert

This proposal would require the inclusion of a large font informational insert with all prescription medications that could adversely interact with alcohol and/or other prescribed or over-the-counter medications.

Dr. Gray stated that there are currently certain requirements in the law to notify consumers, however this proposal expands those requirements to include over-the-counter medications. Dr. Gray indicated that this could be problematic. Dr. Gray indicated that there could be a fiscal impact.

Dr. Cronin stated that this information is already provided on the label and that perhaps consumer outreach is needed to have consumers learn about their medications.

Dr. Schell stated that he shares the concerns with this bill.

Executive Officer Herold reiterated the problems expressed and suggested that board staff talk to the author's office to help them refine the requirements.

Committee Recommendation: No Position

AB 1276 (Karnette) Pharmacies: Prescription Containers: Labels

This proposal would require the prescription label to include the intended use for the medication if noted on the prescription by the prescriber.

Kathy Lynch, CPhA stated that they support the findings of the Medications Error Panel Report and that the CPhA is working with the authors' offices on SB 472, AB 1276, AB 1399 and AB 851 but that the CPhA is concerned about four proposed unfunded mandates.

Dr. Gray suggested that all four proposals and the issue itself should be looked at in their entirety. Dr. Gray stated that currently there is no requirement to include the phone number of the dispensing site on the label.

Mr. Meyer stated that errors can be reduced with better prescription labels but that uncompensated mandated does not work. Mr. Meyer stated that pharmacists need to provide patient consultation.

Committee Recommendation: None

AB 1399 (Richardson) Pharmacies: Prescription Labels

This proposal would require a pharmacy to provide a prescription label that is readable by an assistive technology device if requested.

Dr. Gray stated that this requirement is already in federal law.

Board staff requested clarification as some chain pharmacies recently surveyed to do not currently use such technology.

Committee Recommendation: None

SB 472 (Corbett) Prescription Drugs: Labeling Requirements

This proposal is still in the drafting phase, but the intent is to ensure standardization of prescription labels.

Dr. Schell stated that this bill may be a vehicle to address the issues and intent of all four bills dealing with prescription labels and requested that the public provide their comments and concerns in writing for board consideration.

Committee Recommendation: None

SB 615 (Oropeza) Pharmacy Technicians: Scholarship and Loan Repayment Program

This proposal would establish a scholarship and loan repayment program for pharmacy technicians and require all pharmacy technicians as well as pharmacies to contribute \$10.00 at the time of renewal.

Committee Recommendation: None

SB 809 (Ashburn) Nurse Practitioners

This proposal would expand the scope of practice for nurse practitioners to include, among other things, the independent prescribing and dispensing of medications.

Committee Recommendation: None

SB 822 (Aanestad) Psychology: Scope of Practice

This proposal would create a prescribing psychologist certification to allow the prescribing of limited medications by a certified psychologist.

Committee Recommendation: None

SB 993 (Calderon) Psychologists: Scope of Practice: Prescribing Drug

This proposal would expand the scope of practice for psychologists to include prescribing medications for specially trained and certified psychologists.

Committee Recommendation: None

Discussion and Public Comment on Pill Splitting

Dr. Charles Phillips provided information on the problems associated with pill splitting and stated that when a consumer splits pills, the medication does not split evenly. Dr. Phillips provided additional information about the problems with the practice of pill splitting and urged the board to prohibit the global practice.

Dr. Schell asked for comments on this topic in writing.

Due to time constraints, discussion on some of the pending legislation, as well as the topic of pill splitting did not occur.

Adjournment

The committee adjourned around 1:30 p.m.

Attachment D-8

*Third Quarterly Report on
Committee Goals for 2006/2007*

LEGISLATION AND REGULATION COMMITTEE

Goal 3: Advocate legislation and promulgate regulations that advance the vision and mission of the Board of Pharmacy.

Outcome: Improve the health and safety of Californians.

Objective 3.1	Annually identify and respond with legislative changes to keep pharmacy laws current and consistent with the board's mission.
Measure:	100 percent successful enactment of promoted legislative changes
Tasks:	<ol style="list-style-type: none"> Secure extension of board's sunset date (SB 1476). <i>Sept. 30, 2006: Governor signs SB 1476 which delays the board's sunset date two years (until 2010), and requires the board's sunset report in 2008.</i> Sponsor legislation to update pharmacy law (SB 1475). <i>Sept. 30, 2006: Governor signs SB 1475 containing provisions that:</i> <ol style="list-style-type: none"> <i>Allow a check-off box on electronic prescriptions that if marked by a prescriber, would prevent generic substitution at a pharmacist's discretion (B&P 4073).</i> <i>Clarify requirements for reporting to the board when a licensee is impaired to the extent it affects the licensee's safe practice or who has stolen or diverted drugs (B&P 4104).</i> <i>Establish the authority to issue a temporary sterile injectable compounding license following a change in ownership (B&P 4127.8)</i> <i>Exempt government-owned wholesalers from having to post a \$100,000 bond (B&P 4162).</i> <i>Exempt drug manufacturers who hold a biologics license application from the FDA from having to post a \$100,000 bond otherwise required for nonresident wholesalers (B&P 4162.5).</i> <i>Make technical changes in the licensure requirements for clinics (B&P 4180 - 4182, 4190 - 4192).</i> Advocate the board's role and its positions regarding pharmacists' care and dispensing of dangerous drugs and devices (AB 2408). <i>Sept. 30, 2006: Governor signs AB 2408. Amendments taken in August remove provisions that would have described the professional services provided by pharmacists, and authorized pharmacists outside California to provide pharmacists' care services to patients in California if licensed here or working within the framework of a nonresident pharmacy. Remaining provisions restructure pharmacist protocol provisions and several other changes.</i> Secure statutory standards for pharmacies that compound medications (AB 595). <i>Aug. 2006: Amendments made to remove opposition of DHS regarding pharmacy contracting with another pharmacy for compounded drugs triggers opposition from pharmacy organizations. Board drops AB 595, but will advance regulations developed for compounding pharmacies in the future.</i> <i>Dec. 2006: Licensing Committee evaluates proposed compounding regulations developed in 2004. Some modifications may be needed.</i>

	<p>5. Secure implementation of e-pedigrees on prescription drugs dispensed in California (SB 1476). <i>Sept. 30, 2006: Governor signs SB 1476 which contains board amendments to delay implementation of the e-pedigree requirements until 2009, or upon board action, until 2011. Amendments also require interoperability, serialization, returned drug products to retain the initiating pedigree, require notice to the board of suspected or actual counterfeiting, and continuation of the pedigree through repackaging operations.</i></p>
Objective 3.2	Annually identify and respond with regulatory changes to keep pharmacy regulations current and consistent with the board's mission.
Measure:	Percentage successful enactment of promoted regulatory changes
Tasks:	<ol style="list-style-type: none"> 1. Authorize technicians to check technicians in inpatient pharmacies with clinical pharmacist programs (sections 1793.7-1793.8). <i>Aug. 2006: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i> <i>Nov. 2006: Rulemaking file submitted to the Office of Administrative Law</i> <i>Jan. 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i> 2. Authorize the use of prescription drop boxes and automated delivery machines for outpatient pharmacies (sections 1713 and 1717(e)). <i>Aug. 2006: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i> <i>Jan. 2007: Regulation takes effect following approval by the Office of Administrative Law.</i> 3. Make technical changes in pharmacy regulations to keep the code updated. <i>Dec. 2006: Board notices regulation for 45 days of public comment.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files <i>Jan. 2007: Board adopts regulations.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files <i>Feb. 2007: Rulemaking file compiled and undergoing review by the Department of Consumer Affairs.</i> Section 1775.4 contested citations Section 1706.2 criteria for abandonment of files 4. Repeal the requirement to post a notice regarding electronic files (section 1717.2). <i>July 2006: Regulation released for 45 days of public comment. Action to be taken at the October Board Meeting.</i> <i>Oct. 2006: Board approves regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration review.</i> <i>March 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i> 5. Revise and update Disciplinary Guidelines revision and update (section 1760). <i>Aug. 2006: Final changes to Disciplinary Guidelines being compiled by staff.</i> <i>Dec. 2006: Disciplinary Guidelines is being reformatted into strikeout and underscore version for eventual release for public comment.</i>

	<p>6. Self-assessment of a wholesaler by the designated representative (section 1784). <i>July 2006: Regulation released for 45 days of public comment. Action to be taken at the October Board Meeting.</i></p> <p><i>Oct. 2006: Board approves regulation and compiles rulemaking file. File submitted to the Department of Consumer Affairs to initiate Administration review.</i></p> <p><i>April 2007: Office of Administrative Law approves rulemaking. Regulation takes effect.</i></p> <p>7. Exempt the address of records of interns from display on the board's Web site (section 1727.1). <i>Sept. 2006: Office of Administrative Law approves rulemaking. Regulation takes effect October 2006.</i></p> <p>8. Modification of building standards for pharmacies – rulemaking by the California Building Standards Commission. <i>July 2006: Board notified that a new procedure now exists for adopting building standards. Staff will pursue these procedures in 2007.</i></p> <p>9. Update Notice to Consumers Poster in conformance with AB 2583 (Chapter 487, Statutes 2006)(Section 1707.2) <i>Feb 2007: Board notices regulation for 45 days comment period.</i></p>
Objective 3.3	Review 5 areas of pharmacy law for relevancy, currency and value for consumer protection by June 30, 2011.
Measure:	Number of areas of pharmacy law reviewed
Tasks:	